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# Transcript of Micheal Paul Donovan

**Date:** February 26, 2020

**Case:** RLI Insurance Company -v- Nexus Services, Inc.

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Transcript of Micheal Paul Donovan  
Conducted on February 26, 2020

1 (1 to 4)

<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE WESTERN DISTRICT OF VIRGINIA 3 Harrisonburg Division 4 -----x 5 RLI INSURANCE COMPANY, : 6 Plaintiff, : 7 v. : Case No.: 8 NEXUS SERVICES, INC., et al.: 5:18-cv-00066-MFU 9 Defendants.: 10 -----x 11 12 Video deposition of MICHEAL PAUL DONOVAN 13 McLean, Virginia 14 Wednesday, February 26, 2020 15 10:33 a.m. 16 17 18 19 Job No.: 288370 20 Pages: 1 - 21 Reported by: Judith E. Bellinger, RPR, CRR 22</p>	<p>1 A P P E A R A N C E S 2 ON BEHALF OF THE PLAINTIFF: 3 VIVIAN KATSANTONIS, ESQUIRE 4 CHRISTOPHER HARRIS, ESQUIRE 5 WATT, TIEDER, HOFFAR &amp; FITZGERALD, LLP 6 1765 Greensboro Station Place 7 Suite 1000 8 McLean, VA 22102 9 703.749.1000 10 11 ON BEHALF OF THE DEFENDANTS: 12 MARY DONNE PETERS, ESQUIRE 13 GORBY PETERS &amp; ASSOCIATES, LLC 14 1175 Peachtree Street 15 Suite 1000 16 Atlanta, GA 30361 17 404.239.1150 18 19 20 21 22</p>
<p>1 Video deposition of MICHEAL PAUL DONOVAN held 2 at the offices of: 3 4 5 WATT, TIEDER, HOFFAR &amp; FITZGERALD, LLP 6 1765 Greensboro Station Place 7 Suite 1000 8 McLean, VA 22102 9 703.749.1000 10 11 12 13 Pursuant to notice, before Judith E. 14 Bellinger, Registered Professional Reporter, 15 Certified Realtime Reporter, and Notary Public in 16 and for the Commonwealth of Virginia. 17 18 19 20 21 22</p>	<p>1 A P P E A R A N C E S C O N T I N U E D 2 3 CHRIS K. KOWALCZUK, ESQUIRE 4 ATTORNEY AT LAW 5 P.O. Box 11971 6 Roanoke, VA 24022 7 540.345.0101 8 9 JOHN M. SHOREMAN, ESQUIRE 10 MCFADDEN &amp; SHOREMAN 11 1050 Connecticut Avenue, NW 12 Suite 1000 13 Washington, D.C. 20036 14 202.772.3188 15 16 ALSO PRESENT: 17 Jeremy Dineen, Videographer 18 Mario Williams 19 Richard Moore 20 21 22</p>

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<p>10</p> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: Here begins</p> <p>3 Disc No. 1 in the videotaped deposition of Micheal</p> <p>4 Donovan in the matter of RLI Insurance Company v.</p> <p>5 Nexus Services, Inc., et al., in the United States</p> <p>6 District Court for the Western District of</p> <p>7 Virginia, Harrisonburg Division, Case No. 518 CV</p> <p>8 00066MFU.</p> <p>9 Today's date is February 26th, 2020.</p> <p>10 The time on the video monitor is 10:33. The</p> <p>11 videographer today is Jeremy Dineen representing</p> <p>12 Planet Depos. This video deposition is taking</p> <p>13 place at 1765 Greensboro Station Place, in McLean,</p> <p>14 Virginia.</p> <p>15 Counsel please voice-identify</p> <p>16 themselves and state whom they represent.</p> <p>17 MS. KATSANTONIS: Vivian Katsantonis on</p> <p>18 behalf of RLI Insurance Company and with me is my</p> <p>19 partner Chris Harris.</p> <p>20 MS. PETERS: Mary Donne Peters, Gorby</p> <p>21 Peters and Associates from Atlanta, Georgia, and I</p> <p>22 represent the defendants in the case, Nexus</p>	<p>12</p> <p>1 same firm.</p> <p>2 MS. KATSANTONIS: Mr. Williams is -- I</p> <p>3 recall that, and correct me if I'm wrong that</p> <p>4 Mr. Williams at some point advised that he was</p> <p>5 representing individuals and was denied admission</p> <p>6 for this matter.</p> <p>7 Do you recall that?</p> <p>8 MR. SHOREMAN: Mr. Williams is not</p> <p>9 representing individuals in this case. He's</p> <p>10 representing --</p> <p>11 MR. WILLIAMS: So I know Judge</p> <p>12 Urbanski. I'll talk. So you're talking about</p> <p>13 when you were saying stuff about the motion in</p> <p>14 limine, right?</p> <p>15 MS. KATSANTONIS: Uh-huh.</p> <p>16 MR. WILLIAMS: So that's wrong. I'm</p> <p>17 not representing any third parties or anything</p> <p>18 like that. This is not to gather information for</p> <p>19 some type of collateral or intervention or</p> <p>20 anything. I'm here with John, we're associated</p> <p>21 with the same attorney. We're covered by the same</p> <p>22 privilege. At least that's my understanding.</p>



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4 (13 to 16)

<p>13</p> <p>1 MS. KATSANTONIS: So you are a member 2 of McFadden &amp; Shoreman law firm? 3 MR. SHOREMAN: No, no, no. McFadden &amp; 4 Shoreman is associated with a law firm NDH out of 5 Atlanta. We're associated in terms we have the 6 same privilege. We have the same clients. 7 MR. HARRIS: Who's his client? 8 MR. SHOREMAN: His clients are the 9 Defendants. 10 MR. WILLIAMS: We're probably going to 11 make that as a notice of appearance in the case. 12 MR. SHOREMAN: But you haven't yet, 13 correct. 14 MS. KATSANTONIS: Who is your client? 15 MR. WILLIAMS: The Defendants. 16 MS. KATSANTONIS: Who? 17 MR. WILLIAMS: The Defendants. 18 MR. SHOREMAN: He's my associated 19 attorney. We're working together on details. 20 MR. WILLIAMS: Did y'all want to get 21 Urbanski on the phone or something. I mean, 22 because this is not -- we're taking up 15 minutes.</p>	<p>15</p> <p>1 Urbanski on the phone we can; if not, we need to 2 start the deposition. 3 MS. KATSANTONIS: No, I just wanted to 4 make sure on the record I understood. 5 MR. WILLIAMS: Now you do. 6 MS. KATSANTONIS: All right. We'll 7 note an objection just until an appearance is 8 made. 9 MS. PETERS: And Vivian, just so that 10 we can put on it the record, I mentioned it to you 11 before we started, Mr. Donovan is not feeling well 12 today. We didn't want to delay or suspend the 13 deposition. I'm just letting you know he doesn't 14 feel well today. 15 THE WITNESS: So if I could. I 16 appreciate your hospitality. If there's any way 17 to turn up the heat just a little bit because I'm 18 running a small temperature this morning I have 19 been for a couple days. I feel okay but I may 20 have to take more breaks than I normally would. 21 MS. KATSANTONIS: Absolutely. 22 THE WITNESS: Normally I wouldn't take</p>
<p>14</p> <p>1 MS. KATSANTONIS: No, I just want to 2 understand your involvement since you haven't -- 3 because you just intervened and that had been 4 denied. And then, you know, you -- this is the 5 first time you appeared and I was unaware of any 6 relationship between the law firms. 7 MR. SHOREMAN: Yeah. They're -- 8 MS. KATSANTONIS: So NDH, what does 9 that stand for? 10 MR. KOWALCZUK: What does NDH stand 11 for? I don't know. It's just NDH. It's 12 registered as NDH. 13 MS. KATSANTONIS: Was that related to 14 Derechos Humanos? 15 MR. WILLIAMS: If you look on my web 16 page I credit Mike with finding the law firm and 17 stuff like that. It's just NDH. It's registered 18 as NDH. It's not a doing business as or anything. 19 MS. KATSANTONIS: Nexus Derechos 20 Humanos, NDH? 21 MR. WILLIAMS: Like I just told you, 22 it's registered as NDH. So if we want to get</p>	<p>16</p> <p>1 a break at all. So I may very well need to take 2 breaks today and my lawyers have cautioned me to 3 do that because otherwise I'm just, you know, 4 feeling off, so -- 5 MS. KATSANTONIS: No, absolutely. 6 THE WITNESS: -- you understand. 7 MS. KATSANTONIS: Chris will ask right 8 now that we turn up the heat which is always good 9 with me, I like it warm in the room anyway. 10 THE WITNESS: No pun intended, right? 11 MS. KATSANTONIS: Exactly. We have no 12 problem turning up the heat. 13 MS. PETERS: Much of the testimony will 14 be, I anticipate, covered by the protective order 15 entered in this case. I'm going to note an 16 objection at the beginning. If you're planning to 17 use information regarding financial records in a 18 proceeding rather than go through and object to 19 every single question, may I have an objection at 20 the outset of the deposition so that I don't 21 interrupt the flow of your examination? 22 MS. KATSANTONIS: Sure. You can have</p>

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5 (17 to 20)

<p>17</p> <p>1 an objection as to the financial records. I think 2 Judge Urbanski already ruled on that when we were 3 having the preliminary injunction hearings that -- 4 MS. PETERS: Not in the protective 5 order though. The protective order is broader 6 than -- 7 MS. KATSANTONIS: You're welcome to put 8 your objection on the record and I respect that. 9 I don't agree with it but I -- 10 MS. PETERS: Do I need to object to 11 questions that go into matters that are covered by 12 the protective order or when the deposition 13 transcript is presented, I can at least flag for 14 you what I believe that was the statement in 15 Mr. Okonski's? I don't want to interrupt your 16 flow of the deposition. 17 MS. KATSANTONIS: Only as to the 18 financial records. If there's other areas you 19 think are protected I'd want to know at the time. 20 I don't believe there's any other areas that would 21 be in -- put into question, but I'm happy to hear 22 it.</p>	<p>19</p> <p>1 cross-examination being protected by the 2 privileges -- 3 MS. KATSANTONIS: Right. 4 MS. PETERS: Not privileges but 5 protections of the protective order. 6 MS. KATSANTONIS: Okay. We're also 7 going to put on the record that we still have not 8 received significant documents that we've 9 requested and that includes the full Capsule 10 documents. You gave us a thumb drive at 11 Mr. Schneider's deposition. During the deposition 12 it became apparent that the only documents 13 provided were the call notes rather than the 14 entire Capsule files, and so we've asked for 15 those, haven't still received them. So we're 16 going to reserve our rights to this deponent and 17 any other depositions as a matter of these 18 documents being produced late. 19 In addition, we were supposed to 20 receive last night additional documents, including 21 the second production -- sorry, including the 22 final installment of emails and updated financial</p>
<p>18</p> <p>1 MS. PETERS: Let me make sure I 2 understand. You agree as to the financial 3 records? 4 MS. KATSANTONIS: That you have an 5 objection. I don't agree to the propriety of it. 6 MS. PETERS: All right. We can agree 7 to disagree. 8 MS. KATSANTONIS: Right. 9 MS. PETERS: I'm just making sure that 10 I'm not accused of interrupting your deposition 11 flow. If I can avoid that, I'd like to do it and 12 try to make that objection at the beginning. 13 MS. KATSANTONIS: For the financials. 14 MS. PETERS: For financial and anything 15 that may inadvertently come up, although I don't 16 expect it to, but it might, about an individual 17 program participant or maybe an HR issue. HR 18 issues are confidential. But we have a protective 19 order in this case and I want you to be able to 20 cross-examine the witness as you choose. 21 MS. KATSANTONIS: Okay. Thank you. 22 MS. PETERS: Subject to the</p>	<p>20</p> <p>1 records, which we've asked for for quite some 2 time. And so, again, we're going to reserve our 3 rights with regard to depositions on those 4 documents that haven't been received. 5 MS. PETERS: I understand that a link 6 was sent to you and that inadvertently when the 7 link was sent to you, you were unable to access 8 it. And I believe that communications have been 9 made to the counsel that prepared that link so 10 that you'll have those informations -- that 11 information available to you. 12 We apologize for any confusion in that 13 area. Certainly it was inadvertent. 14 MS. KATSANTONIS: Well, there's a lot 15 of documents and we'll give you that we haven't 16 been produced. Reports from LiteSpeed that 17 witnesses have started to testify regarding. 18 Certain other reports that are transmitted weekly 19 regarding bond breaches. There's been a few of 20 those produced but not all of them. 21 MS. PETERS: I've asked you to identify 22 in writing anything that you contend -- we've</p>

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6 (21 to 24)

<p>21</p> <p>1 produced about a million pages of records. If 2 there's something that you believe that has not 3 been produced, please just send me an email, 4 Ms. Katsantonis. 5 MS. KATSANTONIS: Your witnesses have 6 testified -- 7 MS. PETERS: And we'll address it. 8 MS. KATSANTONIS: -- to the documents 9 and we requested them in document requests. So 10 we'll deal with that off the record. 11 MR. SHOREMAN: Let me just put 12 something in the record because I just -- I 13 inquired about the link for the documents -- 14 MR. HARRIS: Sure. 15 MR. SHOREMAN: -- yesterday. I don't 16 know -- I don't know if you received this but I 17 just received Meredith Hurst will send you a link 18 in the additional production. You got that yet? 19 MR. HARRIS: No. So -- 20 MR. SHOREMAN: Via share file. 21 MR. HARRIS: Right. So we've made 22 three requests starting last night for the</p>	<p>23</p> <p>1 Whereupon, 2 MICHEAL PAUL DONOVAN, 3 being first duly sworn or affirmed to testify to 4 the truth, the whole truth, and nothing but the 5 truth, was examined and testified as follows: 6 DIRECT EXAMINATION BY COUNSEL FOR THE PLAINTIFF 7 BY MS. KATSANTONIS: 8 Q Thank you. And I'm going to ask, also, 9 that the running clock for time starts now. 10 And prior to Mr. Donovan being sworn 11 in, we were advised Mr. Donovan isn't feeling 12 particularly well today so, again, I just want to 13 ask that you know if you're not feeling well at 14 any time please take the breaks you need, let us 15 know. 16 That being said, there's nothing that 17 will prevent you from truthfully and fully 18 answering the questions I ask you today? 19 A No. 20 Q Okay. Thank you. 21 And Mr. Donovan, you've been deposed 22 before, right?</p>
<p>22</p> <p>1 correction of the nonworking link. It's 10:43 2 this morning and the latest communication we have 3 from the firm who apparently is the only counsel 4 who can resolve this, who is not here, just told 5 us that they're going to, in the future, provide 6 us a fix for the link. So we still don't have it. 7 MR. SHOREMAN: All right. Well, 8 apparently Meredith Hurst is sending it to you. 9 MS. PETERS: Can we please take up 10 discovery matters at the breaks -- 11 MS. KATSANTONIS: Yes. 12 MS. PETERS: -- so that the witness 13 who -- 14 MS. KATSANTONIS: Absolutely. 15 MS. PETERS: -- doesn't feel good can 16 be done with today. 17 MR. HARRIS: Certainly. 18 MS. KATSANTONIS: Yes. And in that 19 regard, going back to that, Mr. Donovan, 20 absolutely please let me know -- oops. 21 22</p>	<p>24</p> <p>1 A I have not. 2 Q You've not? 3 A My first time, Vivian, it's exciting. 4 Q Lucky you. Okay. 5 A I get to work with Vivian Katsantonis 6 my first time ever. I mean that. 7 Q So you know how depositions obviously 8 go, right? 9 A Yep. 10 Q So we'll ask you a series of questions. 11 I sometimes ask them inartfully so if you don't 12 understand my question please just ask me to 13 rephrase it. Sometimes when we start engaging in 14 a conversation we might start overlapping each 15 other -- 16 A I can't imagine. 17 Q -- so we'll both try. 18 A That will never happen. 19 Q I know I will be mindful and please be 20 mindful -- 21 A I will be mindful. 22 Q -- so that this court reporter can take</p>

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7 (25 to 28)

<p>25</p> <p>1 our testimony --</p> <p>2 A I literally just did it.</p> <p>3 Q -- your testimony.</p> <p>4 A Did you see that? But I'll be mindful.</p> <p>5 Q So can you please just state your name</p> <p>6 and address for the record?</p> <p>7 A Sure, Micheal Paul Donovan, 47 South</p> <p>8 Windsong Court, Fishersville, Virginia, 22039.</p> <p>9 Q Okay. And Mr. Donovan, can you spell</p> <p>10 your name for the record?</p> <p>11 A M-I-C-H-E-A-L, P-A-U-L, D-O-N-O-V-A-N.</p> <p>12 Q Okay. So you said E-A-L but I see that</p> <p>13 there's documents that you sign with A-E-L?</p> <p>14 A So my name is spelled E-A-L but</p> <p>15 sometimes --</p> <p>16 Q Is that your legal time?</p> <p>17 A That's my legal name. Sometimes</p> <p>18 documents show up as A-E-L. I mean people</p> <p>19 misspell my name. I generally try not to misspell</p> <p>20 my name but sometimes people do. The common</p> <p>21 spelling of Micheal is A-E-L, so I get that a lot.</p> <p>22 Q So E-A-L has always been the spelling</p>	<p>27</p> <p>1 A I got here yesterday. I came here this</p> <p>2 morning. I got lost in your parking garage which</p> <p>3 is very confusing by the way. But I have met with</p> <p>4 lawyers for a couple hours yesterday.</p> <p>5 Q Okay. And did you review some</p> <p>6 documents to refresh your recollection?</p> <p>7 A I did review a few documents.</p> <p>8 Q Okay. So I just want to generally get</p> <p>9 an understanding. I seem to recall that you went</p> <p>10 to law school so I want to get an understanding of</p> <p>11 your background, your educational background. Can</p> <p>12 you let me what that is?</p> <p>13 A Sure. I have a Bachelor's degree in</p> <p>14 business management from Western Governors</p> <p>15 University. I have -- I did not graduate law</p> <p>16 school. I finished my -- in my second year almost</p> <p>17 done. And maybe one day I'll go back and finish</p> <p>18 that. Although I've been busy. So it's been</p> <p>19 difficult to get on that bucket list, you know,</p> <p>20 but I am going to do it one day.</p> <p>21 Q Where did you go to law school?</p> <p>22 A Charlotte School of Law. This is one</p>
<p>26</p> <p>1 of your name?</p> <p>2 A That's the one on my driver's license.</p> <p>3 Q That's on your driver's license today.</p> <p>4 But have you always spelled your name E-A-L?</p> <p>5 A I have always spelled my name E-A-L.</p> <p>6 Q And that's always been the legal</p> <p>7 spelling of your name?</p> <p>8 A Correct.</p> <p>9 Q Okay. And you understand we're here</p> <p>10 regarding the litigation between RLI Insurance</p> <p>11 against Nexus Services, Inc., Libre by Nexus, and</p> <p>12 Homes by Nexus Inc.?</p> <p>13 A Yes, ma'am.</p> <p>14 Q And if I use terms like RLI Company,</p> <p>15 Nexus, Libre, and Homes, do you understand what</p> <p>16 I'm referring to?</p> <p>17 A I do. And if I don't I'll make sure I</p> <p>18 ask a clarifying question.</p> <p>19 Q Great. And did you prepare for this</p> <p>20 deposition?</p> <p>21 A Sort of. Yeah, I guess so. Yeah.</p> <p>22 Q Okay. What did you do to prepare?</p>	<p>28</p> <p>1 of the reasons why I didn't finish because the</p> <p>2 school shut down.</p> <p>3 Q Where is that located?</p> <p>4 A It's in Charlotte, North Carolina.</p> <p>5 Q Okay.</p> <p>6 A So when it shut down there was a</p> <p>7 teach-out program. I was doing it sort of</p> <p>8 part-time. The teach-out program would have</p> <p>9 required people to move to like Phoenix and do the</p> <p>10 full-time. It just didn't make sense.</p> <p>11 Q Right. So what year did you receive</p> <p>12 your bachelor's degree?</p> <p>13 A 2000 and -- I don't know. I'm not</p> <p>14 sure. I'm not a hundred percent certain. I don't</p> <p>15 want to provide a wrong answer.</p> <p>16 Q And what year did you attend the two</p> <p>17 years of law school?</p> <p>18 A I -- it was in the 2000 and teens but I</p> <p>19 don't want to give you -- I just don't want to</p> <p>20 provide the wrong -- you know what I mean? I'm</p> <p>21 not a hundred percent sure.</p> <p>22 Q Uh-huh.</p>



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8 (29 to 32)

<p>29</p> <p>1     <b>A I apologize.</b></p> <p>2     Q What year did you graduate from high</p> <p>3 school?</p> <p>4     <b>A I got my GED -- I received my GED in</b></p> <p>5 <b>1996.</b></p> <p>6     Q And you're also a minister; is that</p> <p>7 correct?</p> <p>8     <b>A I am.</b></p> <p>9     Q Licensed?</p> <p>10    <b>A I am.</b></p> <p>11    Q Okay. And do you have any other</p> <p>12 certifications or professional qualifications?</p> <p>13    <b>A No.</b></p> <p>14    Q All right. When did you form Nexus</p> <p>15 Services, Inc.?</p> <p>16    <b>A Nexus Services, Inc., was formed, I</b></p> <p>17 <b>believe, in 2014, 2000 -- it was between 2013 and</b></p> <p>18 <b>2014.</b></p> <p>19    Q Okay. And prior to forming Nexus, can</p> <p>20 you give me a general understanding of what was</p> <p>21 your employment, let's say, since starting in the</p> <p>22 2000s?</p>	<p>31</p> <p>1     <b>The other thing is I have done some</b></p> <p>2 <b>lobbying work related to bail bond issues. So</b></p> <p>3 <b>those two things I would say.</b></p> <p>4     Q So when you say pre or -- I don't know</p> <p>5 that area very well --</p> <p>6     <b>A Oh, sure.</b></p> <p>7     Q -- so excuse me for my ignorance.</p> <p>8     <b>A No, please.</b></p> <p>9     Q But when I say pre -- you know, you</p> <p>10 were doing some work with the prebail bond.</p> <p>11    <b>A Uh-huh.</b></p> <p>12    Q I'm just trying to understand. Like</p> <p>13 did you ever work for or were affiliated with any</p> <p>14 bail bond company?</p> <p>15    <b>A So as I --</b></p> <p>16 MS. PETERS: Object to form.</p> <p>17    <b>A As I told you, I did -- I'm sorry.</b></p> <p>18 MS. PETERS: Would you two allow each</p> <p>19 other to have a brief pause between the question</p> <p>20 and answer. You both speak very rapidly and</p> <p>21 you're talking over each other.</p> <p>22 MS. KATSANTONIS: Sure.</p>
<p>30</p> <p>1     <b>A Sure. I have done ministry both in</b></p> <p>2 <b>jail, prison ministry, you know, ministry of</b></p> <p>3 <b>homeless, ministry of individuals who are trapped</b></p> <p>4 <b>in sort of, you know, that cycle. So those types</b></p> <p>5 <b>of things. So I've done that kind of work. I've</b></p> <p>6 <b>done lobbying work. I've done retail work.</b></p> <p>7     Q Okay. As far as -- so when did you</p> <p>8 start forming -- was Nexus Services your first</p> <p>9 formation of a business to get into the business</p> <p>10 of facilitating immigration bonds?</p> <p>11    <b>A Yes. Yeah.</b></p> <p>12    Q Okay. So prior to that were you in any</p> <p>13 sort of business regarding bail bonds?</p> <p>14 MS. PETERS: Object to form.</p> <p>15    <b>A So I -- in two ways; one, I had a</b></p> <p>16 <b>program that was designed -- the way Nexus started</b></p> <p>17 <b>was a program that was working with criminal</b></p> <p>18 <b>defendants, some of whom were pre-entry or on</b></p> <p>19 <b>bond, some of whom were coming out of custody that</b></p> <p>20 <b>were reentering society. So that may be what</b></p> <p>21 <b>you're talking about because I think we've had a</b></p> <p>22 <b>conversation about that before.</b></p>	<p>32</p> <p>1     <b>A We enjoy talking, that's the problem.</b></p> <p>2 <b>But could you repeat the question?</b></p> <p>3     Q So I'm just trying to understand what</p> <p>4 you did with regard -- did you have any</p> <p>5 affiliation or connection with any kind of bail</p> <p>6 bond company or services program for bail bonds?</p> <p>7     <b>A Like in posting bonds?</b></p> <p>8     Q Or GPS, or any services that relates</p> <p>9 to --</p> <p>10 MS. PETERS: Object to form.</p> <p>11    <b>A No. I mean, I've done lobbying. So I</b></p> <p>12 <b>did lobbying work for a company called Bail USA,</b></p> <p>13 <b>lobbying work for individuals in the bail space.</b></p> <p>14 <b>But I don't -- I don't know what you're talking --</b></p> <p>15 <b>I don't know what you're referring to. I would</b></p> <p>16 <b>have to say no unless --</b></p> <p>17    Q You did --</p> <p>18    <b>A -- you were more specific.</b></p> <p>19 MS. KATSANTONIS: You did lobbying --</p> <p>20 MS. PETERS: Object to form. Please</p> <p>21 let him finish his answer before you start the</p> <p>22 question.</p>

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9 (33 to 36)

33

1 MS. KATSANTONIS: Sure.

2 Q I'm just trying to understand prior to

3 Nexus Services, what involvement you had with --

4 your testimony is that in 2014 when you formed

5 Nexus Services that was the first -- your first,

6 for lack of a better word foray into immigration

7 bond services?

8 A Right.

9 MS. PETERS: Object to form.

10 Q So prior to that, I'm just trying to

11 understand, you know, how did that come to be --

12 A I understand.

13 Q -- and your involvement in the bail

14 bond community.

15 A I understand. Well, again, as I

16 indicated a lot of that work was legislative,

17 right, so there were some legislative issues in a

18 few different states that I worked on vis-à-vis

19 the bail bond industry. All of those issues

20 related to pretrial detention, you know, bond

21 amounts or the qualifications of individuals

22 applying for pretrial release and what pretrial

34

1 release agencies could do and couldn't do in those

2 individual communities.

3 So that work was -- you learn a lot

4 about obviously the subject matter when you're

5 working in that -- in that way. And so I

6 certainly learned a lot about the issue and then

7 became aware of how unfair the immigration, for

8 lack of a better word, justice system is, even

9 more unfair than the criminal justice system

10 vis-à-vis individuals entering or preentering

11 because those individuals are faced with very high

12 bond amounts that they have to pay and there are

13 bonds that are required to be secured. So the

14 chances of these individuals, many of them are

15 indigent so they don't have the ability. And so I

16 became acutely aware of a lot of the pain and

17 suffering that was happening as a result of

18 that --

19 Q Okay.

20 A -- area.

21 Q But with regard to criminals who were

22 perhaps --

35

1 A Criminal defendants.

2 Q Criminal defendants who were out on

3 bail, did you have any involvement in that

4 process?

5 MS. PETERS: Object to form.

6 A We -- as I told you, when we did the

7 pre-entry program we were working with people that

8 were released on bond, yes.

9 Q That were what?

10 A That were released on bond under the

11 criminal --

12 Q So what pre-entry program? What are

13 you talking about?

14 A Well, we called it Project Nexus so it

15 has the same name and it is the genesis really of

16 it and the idea, which is around the idea of how

17 do people perform in criminal bond situations,

18 right?

19 Q Okay.

20 A Well, you asked. I want to make sure

21 because --

22 Q I know, but I don't --

36

1 A But it's my deposition. I really want

2 to make sure you have my answer, right? In the

3 criminal bond space what we decided was that

4 people who -- when we look at it, people who fail

5 to appear, fail to appear because -- not because

6 they decided they weren't going to come to court

7 but something happened in the process. And so

8 what we believed is if you could provide strategic

9 support to individuals in crisis through that

10 process, they'd comply, which is better for

11 everybody and ultimately better for them.

12 Q So that's Project Nexus?

13 A Right.

14 Q Is that a company?

15 A It was. Yeah, it was --

16 Q And when was --

17 A It was a nonstock. It was designed to

18 be a charitable. We were trying to run it as sort

19 of an opportunity for people to get help. It

20 wasn't really started as a business initiative.

21 Q And what year were -- what years were

22 you doing Project Nexus?

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37  
1 A I'm not a hundred percent. It was  
2 around 2010 but I'm not a hundred percent sure.  
3 Q Okay. But were you at any point in  
4 time, prior to 2014, providing either bail bonds  
5 or GPS tracking services for criminal defendants?  
6 A Yes. GPS tracking services for people  
7 on the pre-entry program, some of them, yes.  
8 Q On the pre-entry program. They had to  
9 sign up with program Nexus? Is that what you're  
10 saying?  
11 A Right. Yeah, they had to -- so --  
12 well, sometimes it was individuals who were  
13 ordered on bond and the bond included a condition  
14 for GPS and there was no one in the Hampton Roads  
15 area, for example, which is where we were doing  
16 that, that could do the GPS. So there just wasn't  
17 a private company.  
18 Q So you provided GPS --  
19 MS. PETERS: Object. Object to form.  
20 Please let him finish his answer.  
21 MS. KATSANTONIS: I think I did.  
22 Q So you provided GPS services to

38  
1 criminal defendants, GPS tracking services for  
2 criminal defendants?  
3 A Right. We did.  
4 Q Okay. And was that local? Was that  
5 all in Virginia or was there other places you did  
6 that?  
7 A I would say it's almost all Virginia,  
8 but I can't tell you that there weren't a couple  
9 of people. I mean, yeah.  
10 Q Okay. And was that all in the name of  
11 Project Nexus or was there another company or  
12 affiliate name?  
13 A We were doing lobbying under the  
14 Criminal Justice Reform Coalition, and that's kind  
15 of how it started. So the offices that that was  
16 ran out of were the Criminal Justice Reform  
17 Coalition offices.  
18 MS. PETERS: Guys, I'm going to ask you  
19 to please slow your speech down because the court  
20 reporter is really struggling to get the  
21 testimony, I believe.  
22 MS. KATSANTONIS: Okay.

39  
1 MS. PETERS: Given the heavy sigh.  
2 Q So there's no other company or  
3 corporation that you did that work under?  
4 A Not that I can recall.  
5 Q Okay. And then who are you employed  
6 by?  
7 A Nexus --  
8 MS. PETERS: Object to form.  
9 A Nexus Services, Inc.  
10 Q Okay. And who signs your paychecks?  
11 A I don't know.  
12 Q Could your paychecks be on Libre by  
13 Nexus checks?  
14 A It could be. I haven't gotten a  
15 paycheck in a while. I haven't physically  
16 received a paycheck and deposited it in a really  
17 long time.  
18 Q Did the payments come out of a Nexus  
19 Services account or Libre by Nexus account?  
20 MS. PETERS: Object to form.  
21 A I don't know. I don't handle payroll.  
22 Q Who handles payroll?

40  
1 A Our HR department.  
2 Q Who in HR?  
3 A Lisa -- Lisa Breeden is our director of  
4 human resources and she's responsible for the  
5 day-to-day operations there.  
6 Q Are you salaried?  
7 A I am.  
8 Q And what's your salary?  
9 A I'm a little embarrassed to say that I  
10 don't know. I took a pay cut as part of an effort  
11 to streamline costs and prepare for litigation  
12 budgets, et cetera, et cetera, so I honestly don't  
13 remember what it is. I apologize. I can  
14 certainly check. I don't want to be -- obfuscate,  
15 I just don't know and I don't want to tell you the  
16 wrong thing.  
17 Q How many employees does Nexus Services  
18 have?  
19 A I also don't know exactly. I think  
20 we're between a hundred and 150. But to be honest  
21 with you, it's a moving number.  
22 Q Where are those employees located?



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11 (41 to 44)

<p>41</p> <p>1 MS. PETERS: Object to form. 2 Are you asking about Nexus or Libre? 3 MS. KATSANTONIS: I asked for Nexus. 4 Q So a hundred to 150 employees for Nexus 5 Services? 6 A Well, Nexus Services is a common 7 paymaster so all the payroll is operated out of a 8 common paymaster, and that's an arrangement that 9 we had worked with our former tax attorney at 10 Gentry Locke to set up. 11 So when I say hundred and 150, I 12 thought you were talking about payroll, and I was 13 just answering the number of people that are on 14 payroll. That would be for multiple companies. 15 Obviously, they're employees of Homes, et cetera. 16 Q So the hundred to 150 employees include 17 Libre by Nexus and Homes and other companies? 18 A Correct. You asked about payroll and 19 so I was responding in that way. 20 Q Okay. And do you know how to divide 21 up, how many employees work for Nexus Services, 22 Inc.?</p>	<p>43</p> <p>1 Q Okay. Same roles and responsibilities 2 generally? 3 A Correct. Well, same roles. Quite 4 different responsibilities. 5 Q What's the difference in the 6 responsibilities at Libre verse Nexus? 7 A Well, Libre is client facing. And so 8 you are dealing with clients all the time. It is 9 the passion I have for the work that we do, so 10 naturally that is hugely important to me. Being 11 able to make a difference in people's lives is 12 really, really incredible. 13 Q Do you distinguish work hours for Libre 14 verse Nexus? 15 A Well, I work all the time, Vivian, so I 16 don't really distinguish work hours versus nonwork 17 hours, to be honest with you. 18 Q Right. What is your title at Homes? 19 A Same. 20 Q Okay. And what are your roles and 21 responsibilities at Homes? 22 A Generally speaking, the same. We have</p>
<p>42</p> <p>1 A Well, sure. I mean, I guess I -- first 2 of all, on our employee roster the company is 3 listed. So a very easy way to do that would be to 4 pull the employee roster and sort by company. I 5 could also go through a list of our employees and 6 probably tell you. 7 Q Okay. 8 A I would hope. 9 Q Okay. And what is your title at Nexus 10 Services? 11 A President and CEO. 12 Q And very generally what are your roles 13 and responsibilities? 14 A Very generally, being responsible for 15 everything. And in handling crises and putting 16 out fires. 17 Q Okay. 18 A Not unlike a lawyer. 19 Q And what is your title at Libre by 20 Nexus? 21 A So I am the president and CEO of Libre 22 as well.</p>	<p>44</p> <p>1 property management. So, you know, I'll deal with 2 issues or crises. I'm very fortunate to have 3 wonderful employees and a great team of people who 4 handle the operational day-to-day. So, you know, 5 I'm pleased and proud of that team. 6 Q Do you receive any compensation from 7 Homes? 8 A No. I don't -- I don't receive any 9 direct compensation from Homes. 10 Q Okay. Do you -- what are the assets of 11 Homes? 12 A Well, I don't know off the top of my 13 head. So I want to be careful not to answer a 14 question based on what I think I know. 15 Q Are the properties that are listed in 16 the Nexus balance sheets or profit and loss 17 statements, are those properties Homes assets or 18 Nexus assets? 19 A Well, the properties are encapsulated, 20 for the most part, in LLCs. That is pretty common 21 in a property management situation, I understand. 22 That was advice of counsel that I followed. So I</p>

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12 (45 to 48)

<p>45</p> <p>1 don't really understand the difference. 2 I mean, you know, these are properties 3 that are managed by Homes, right, they're managed 4 by Homes, Homes is a property management company. 5 Many of the properties were acquired by Nexus 6 Properties, LLC or other LLCs and many of the 7 properties exist in an LLC denoting the name of 8 the property. 9 Q And are the LLCs who own the property, 10 are you an individual owner of the LLCs? 11 A No, I'm a manager. 12 Q You have no ownership in the LLCs who 13 own the properties? 14 A I'm a manager. I have to -- I have to 15 probably admit that your understanding of 16 corporate law and mine probably very much a delta. 17 So I'm a manager of the LLC, and I can tell you 18 that. What that means legally... 19 Q Right. Well, do you know whether or 20 not you have an ownership interest in any of the 21 LLCs? 22 A I know that I'm a manager --</p>	<p>47</p> <p>1 A And perhaps I was inartfully using the 2 word manager and member. 3 Q Right. Are you a member of every LLC 4 that owns the properties? 5 MS. PETERS: Object to form. 6 A I believe so. 7 Q And do you know what percentage member 8 you are? 9 A I don't. 10 Q Is it more than 50 percent? 11 A I don't know. 12 Q Who are the other members of the LLCs? 13 A I know Richard Moore is a member of the 14 LLC. I don't know for sure the others and so I 15 don't want to -- I don't -- I don't know for sure. 16 Q Okay. Is it possible that besides you 17 and Mr. Moore there's no other members of the 18 LLCs? 19 MS. PETERS: Object to form. 20 A It's -- I guess it's possible since 21 I -- I don't know. 22 Q Who would know that?</p>
<p>46</p> <p>1 MS. PETERS: Objection. 2 A -- of the LLCs. 3 Q So you don't know whether or not you 4 have an ownership interest? 5 MS. PETERS: Object to form. 6 A I do know that I'm a manager. I assume 7 that that obviously -- I know that there are 8 managers of the LLC, and I know that can be as an 9 ownership interest. I don't know the legality of 10 that and I'm not going to comment on it because 11 I'm not -- I don't know, so... 12 Q Right. Well, the owner of an LLC is 13 typically called a member. 14 A Uh-huh. 15 Q And then you have a managing member. 16 So do you know if you're a member of 17 the LLCs? 18 MS. PETERS: Object to form to the 19 extent that it calls for a legal conclusion. 20 MS. KATSANTONIS: Sure. 21 A I am a member of the LLC. 22 Q Okay.</p>	<p>48</p> <p>1 MS. PETERS: Object to form. 2 A I could look at the records and get 3 back to you. 4 Q Okay. And those LLCs, those were 5 formed by Gentry Locke? 6 A That's correct. 7 Q Okay. And Gentry Locke has since 8 resigned as the registered agent for those LLCs; 9 is that correct? 10 MS. PETERS: Object to form. 11 A We've switched registry agents, that's 12 correct. 13 Q Who is the replacement registered 14 agent? 15 A I'm not a hundred percent certain. 16 Q Well, who do you believe it to be? 17 MS. PETERS: Object to form. 18 A I believe it to be CT or Corporation 19 Service. 20 Q Okay. Does Nexus Services receive rent 21 for Homes? 22 MS. PETERS: Object to form.</p>

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13 (49 to 52)

<p>49</p> <p>1 A Does Nexus Services receive rents from 2 Homes? No. 3 Q Does Nexus Services receive rents 4 directly for the properties? 5 A No. That -- no. And to be clear, I 6 mean, that's no. Homes by Nexus receives rent for 7 properties -- 8 Q Okay. 9 A -- that Homes manages. Which is very 10 typical of a property management company. 11 Q And who pays the bills for the 12 mortgages? 13 MS. PETERS: Object to form. 14 A I don't know. I would assume our 15 finance team. 16 Q At Nexus? 17 A We have a finance team at Homes and a 18 finance team at Nexus. 19 How those checks are cut on a daily 20 basis or a monthly basis, I don't know. 21 Q Is it accurate that the vast majority 22 of revenue that comes in to Nexus Services is</p>	<p>51</p> <p>1 A And, Vivian, I apologize for the -- I 2 just want to answer your questions directly -- 3 Q No. I -- 4 A -- and understand you. 5 Q -- I appreciate it. 6 A I appreciate you. 7 Q All right. I'm going to show you, 8 we're going to mark this as Exhibit 1. 9 (Donovan Exhibit 1 marked for 10 identification and attached to the transcript.) 11 Q We have to let her mark it first. 12 A Oh, sure. 13 Q This is a document that was presented 14 to RLI. It was used in a 30(b)(6) deposition in 15 November of 2018. 16 A Okay. 17 Q And so I guess my first question will 18 be in looking at this document, you can take a 19 quick look, does that adequately depict the Nexus 20 Services companies -- 21 MS. PETERS: Object to form. 22 Q -- and owner --</p>
<p>50</p> <p>1 through Libre by Nexus? 2 MS. PETERS: Object to form. 3 A Yes, I would say that's true. 4 Q Right? And so other than perhaps rent 5 from Homes, is there any other revenue stream to 6 Nexus Services? 7 MS. PETERS: Object to form. 8 A No. 9 Q And was the revenue stream that was 10 obtained through Libre by Nexus used to purchase 11 the homes? 12 MS. PETERS: Object to form. 13 A I would assume. I don't know the 14 exact -- I would assume so. 15 Q All right. If there is a -- well, with 16 regard to the bills for the mortgages of the home 17 properties, are those paid by Libre by Nexus or 18 Nexus Services fund? 19 A I don't know for sure, but I assume -- 20 I assume so. 21 MS. PETERS: Object to form. 22 Q Okay.</p>	<p>52</p> <p>1 MS. PETERS: Object. 2 Q -- and ownership? 3 MS. PETERS: Sorry. Didn't mean to 4 interrupt. 5 Object to form to the extent that it 6 calls for a legal conclusion. 7 A Can you give me a moment just to -- 8 Q Absolutely. There's a lot on there. 9 A I appreciate it. And the yellow boxes 10 are difficult. It looks correct with the 11 exception of Nexus retail brands. We -- Nexus is 12 not in the retail business. We were going to be 13 in the retail business and made a decision that it 14 was not part of our core mission and didn't align 15 with what we were doing. So that is no longer a 16 part of our operations, but everything else is 17 correct. It looks correct. 18 Q As far as there's dates under them -- 19 A Yes, ma'am. 20 Q -- as to when they were formed. 21 Are those dates that you can confirm? 22 A Unfortunately, I can't independently</p>

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14 (53 to 56)

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1 confirm any of those dates because I just -- you  
2 know, my memory -- I just wouldn't know. They  
3 look correct, but I wouldn't be able to confirm  
4 exactly.

5 Q All right. And we talked about that  
6 the revenue that goes to Nexus Services, Inc., I'm  
7 trying to use a word that you're -- the vast  
8 majority is funds received from Libre by Nexus,  
9 right?

10 A Right.

11 Q And the funds received by Libre by  
12 Nexus is the, again, vast majority of the revenue  
13 received by Libre by Nexus payments from program  
14 participants?

15 MS. PETERS: Object to form.

16 A So you're asking if the majority of our  
17 payments are payments that are made to Libre by  
18 program participants? I think that's a fair thing  
19 to say, sure.

20 Q Right. The source of revenue --

21 A Yeah.

22 Q -- for Libre by Nexus?

54

1 A Yeah. Because the clients are making  
2 payments.

3 Q Right. Is there any other revenue  
4 source for Libre by Nexus other than the program  
5 participant payments?

6 A No.

7 Q And I guess --

8 A Not that I'm aware of.

9 Q Right. Let me just ask one more  
10 because I know there's -- the -- the rents that  
11 are received from Homes, do you know where those  
12 payments go to? You think they go to Homes?

13 MS. PETERS: Object to form.

14 A So ultimately -- so they do go to Homes  
15 and then ultimately I think bubbles up to -- you  
16 know, so there's a -- there may be -- I don't know  
17 how that process works so I want to be cautious  
18 not to say something that's just inaccurate or  
19 inartful.

20 Q Okay. So why was Libre by Nexus formed  
21 as a separate entity?

22 MS. PETERS: Object to form.

55

1 Q Than Nexus Services?

2 A You know, I -- we were having -- I'm  
3 trying to remember that conversation with counsel  
4 at the time.

5 MS. PETERS: Object to form. To the  
6 extent that you are communicating legal advice  
7 that Mr. Gust or your then corporate counsel would  
8 have been communicating with you, Ms. Katsantonis  
9 does not want to ask you, nor should you  
10 provide --

11 A Right.

12 MS. PETERS: -- that information.

13 THE WITNESS: Absolutely.

14 A You know, the -- from my perspective,  
15 we -- there are direct services that we provide to  
16 clients, and then there are services, support  
17 services that are provided to field personnel.  
18 They're very different roles, right?

19 And in the Nexus Services environment,  
20 you have individuals that are serving, you know,  
21 field personnel, internal customers, if you will.

22 And on the Libre side, you have

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1 individuals that are serving clients. And in my  
2 mind it made sense that there be a separation and  
3 a distinction because the work is completely  
4 different.

5 And I feel, as a CEO, I think it bears  
6 out that people are better when they are better  
7 performers, when they know exactly what's expected  
8 of them and they understand what they're supposed  
9 to do and any decisions that we made in that  
10 regard, Vivian, were designed to make sure that  
11 our employees were focused on the work that they  
12 were doing so that they could do the best work  
13 possible for our clients.

14 Q Okay. So distinguishing -- so the work  
15 that's done, I just want to make sure, I might  
16 have gotten it confused. So Libre is doing the  
17 work with the program participants?

18 A Correct.

19 Q And Nexus Services is doing more work  
20 with the management, you know, like the case  
21 managers, et cetera, for the program  
22 participants --



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15 (57 to 60)

57

1 MS. PETERS: Object to form.  
2 Q -- or what's the distinction?  
3 MS. PETERS: Object to form.  
4 A Yeah, so Nexus Services is doing more  
5 work related to sort of supporting Libre. So  
6 if -- Nexus Services is a support company for  
7 Libre. And it's a support -- you know, as one  
8 company then would support another. That's I  
9 think the best way I can describe it.  
10 Q Okay. But they share funds, right?  
11 MS. PETERS: Object to form.  
12 A I don't know. I don't know that I  
13 would say that they share funds. I think that  
14 that -- I don't think that the companies share  
15 funds. I think that it's possible that funds go  
16 from one company to another and that, you know,  
17 would be -- I don't necessarily want to agree with  
18 that statement because I don't think I agree with  
19 the way you've said it.  
20 Q Well, all the funds are coming into  
21 Libre.  
22 A I think the concern is the word "share"

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1 and I just don't want to agree. Something tells  
2 me you may mean something different than me, and I  
3 just don't -- well, maybe, but maybe, and I just  
4 want to be careful not --  
5 Q Right.  
6 A -- to agree to a word that I am  
7 uncomfortable with. So the word "share" makes --  
8 I don't think that word is what I would use but I  
9 certainly do believe that Nexus Services  
10 ultimately ends up receiving revenue that Libre  
11 receives from clients. I think that's absolutely  
12 true. So if that's what you're asking.  
13 Q Right. I mean, there -- and Libre,  
14 there's a Libre operating account, right?  
15 A I believe so.  
16 Q And from that operating account funds  
17 are transferred to other accounts or, first of  
18 all, they're transferred to other Nexus or Libre  
19 accounts?  
20 MS. PETERS: Object.  
21 Q Or Homes accounts, right?  
22 MS. PETERS: Object to form.

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1 A There are transfers.  
2 Q Right.  
3 A Speaking specifically, I don't -- I  
4 don't -- I can't speak specifically to something  
5 that's not specific. I'm sure there are  
6 transfers, for sure.  
7 Q And there's transfers even to -- at one  
8 point Caridades, which is a law firm, right?  
9 MS. PETERS: Object to form.  
10 A So Caridades is a program for pro bono  
11 legal assistance. At one time a firm called Nexus  
12 Caridades Attorneys existed, but the Caridades  
13 program existed before that firm and exists after  
14 it.  
15 Q Right. So let me get back. The Nexus  
16 Services we talked about, they have no source of  
17 revenue other than from Libre by Nexus?  
18 MS. PETERS: Object to form. Misstates  
19 prior testimony.  
20 A I think they have a source of revenue  
21 from Libre by Nexus. I would again say it  
22 slightly differently.

60

1 Q Well, okay. What source of revenue  
2 does Nexus have independent of revenue from Libre  
3 by Nexus or --  
4 A Oh, I didn't say --  
5 Q To the extent they get rent from Homes.  
6 A I didn't say they have other, I just --  
7 I'm answering the question. I want to make sure I  
8 don't want to agree to words I don't think --  
9 Q Sure. I'm not trying to be -- I'm  
10 sometimes inartful.  
11 A No, it's a hundred percent.  
12 Q Yeah, let's just go with -- so Nexus  
13 Services has no source of revenue independent of  
14 Libre or Homes?  
15 A I think that's right, yeah.  
16 Q Okay. And Nexus Services expenses are  
17 paid from those funds?  
18 MS. PETERS: Object to form.  
19 A To the extent that those funds are  
20 received from Libre to Nexus and then used to pay  
21 expenses, sure, I think that's -- I think that's  
22 correct, yeah.

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16 (61 to 64)

<p>61</p> <p>1 Q And that would include all obligations 2 of Nexus, all surety obligations for immigration 3 bonds? 4 MS. PETERS: Object to form to the 5 extent that it calls for a legal conclusion. 6 Vague. 7 A Nexus Services is the party on the 8 general indemnification agreement with your client 9 and Nexus Services does pay when necessary, as you 10 know. 11 Q Right. And those payments are coming 12 from the funds received from Libre or Homes -- 13 MS. PETERS: Object. 14 Q -- correct? 15 MS. PETERS: Object to form of the 16 question. 17 A Well, those payments are coming from 18 funds we receive, yes, which is -- yeah. 19 Q Derived from Libre or Homes, correct? 20 MS. PETERS: Object to form. 21 A Well, yes. 22 Q Okay.</p>	<p>63</p> <p>1 for that. So they would -- that would have 2 started it right after or shortly after. 3 Q Okay. And is that -- 4 A And I would say that, you know, I'm 5 going to tell you that this date looks right. I 6 don't have any independent con -- you know what I 7 mean? 8 Q Right. 9 A Like I -- 10 Q We could look at the -- 11 A Sure. I could look at -- 12 Q -- formation document. 13 A Of course, yes. 14 Q Okay. And would that be true as far as 15 would it have been at this date or shortly 16 thereafter that Libre by Nexus began collecting 17 the revenue we talked about from program 18 participants? 19 A Right. Because it didn't exist before. 20 So it wouldn't have been collecting it before. It 21 would have started collecting it when it existed. 22 I think it probably would have started operating</p>
<p>62</p> <p>1 MS. PETERS: Is this a good time to 2 take a short break? 3 THE WITNESS: I think a bio break would 4 be good. 5 THE VIDEOGRAPHER: We are going off the 6 record at 11:20. 7 (Recess taken.) 8 THE VIDEOGRAPHER: We are back on the 9 record at 12:11. 10 BY MS. KATSANTONIS: 11 Q Okay. Prior to the break we had looked 12 at the corporate formation sheet, which was one of 13 the exhibits. 14 A Yes, ma'am, I have it right here. 15 Q Okay. And Libre by Nexus says it was 16 formed in June of 2014. 17 A That's what it says, yep. 18 Q Right. So around the time Libre was 19 formed, is it at that point that it began 20 providing the services you talked about earlier to 21 program participants? 22 A Right. Yeah. We would have formed it</p>	<p>64</p> <p>1 very quickly after its -- after its creation, 2 yeah. 3 Q Okay. So to the best of your 4 knowledge, shortly after its creation Libre by 5 Nexus started receiving the revenue from program 6 participants? 7 A Correct. 8 Q Is that correct? 9 MS. PETERS: Object. 10 MS. KATSANTONIS: Sorry. 11 Q That was correct, right? 12 A That is correct. 13 Q Okay. 14 MS. PETERS: Object to form. 15 Q And -- 16 A I'm going the pause when I answer. 17 Q All right. And so do you recall that 18 Nexus Services' first introduction with RLI was 19 probably sometime around April of 2015? 20 MS. PETERS: Object to form. 21 A I don't -- I don't recall but that 22 sounds right.</p>

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17 (65 to 68)

<p>65</p> <p>1 Q Okay. And prior to contacting RLI, who</p> <p>2 was issuing immigration surety bonds at Nexus'</p> <p>3 request?</p> <p>4 A There were multiple companies. I'm not</p> <p>5 a hundred percent sure who was immediately</p> <p>6 preceding.</p> <p>7 Q What are the multiple companies that</p> <p>8 Nexus was working with prior to RLI?</p> <p>9 A There was AIA, and I believe Financial</p> <p>10 Casualty. Although I'm just not a hundred percent</p> <p>11 sure of the dates so I don't want to tell you</p> <p>12 wrong.</p> <p>13 Q And what about when you say "Financial</p> <p>14 Casualty" is that Financial Casualty Surety?</p> <p>15 A I believe that's what it's called,</p> <p>16 yeah.</p> <p>17 Q What about International Fidelity,</p> <p>18 IFIC?</p> <p>19 A That's AIA. So AIA is Allegheny,</p> <p>20 International Fidelity Associated Bond. I don't</p> <p>21 know, the name is like 20 times – 20 names long.</p> <p>22 Q Okay. And that includes IFIC?</p>	<p>67</p> <p>1 Mr. LiMandri?</p> <p>2 MS. PETERS: Object to form. Vague.</p> <p>3 A What do you mean by "bail bond work"?</p> <p>4 Q Well, any type of bail bond services,</p> <p>5 GPS, et cetera, with Mr. LiMandri.</p> <p>6 MS. PETERS: Object to the form of the</p> <p>7 question to the extent that it's vague.</p> <p>8 A Do you mean in addition to the work</p> <p>9 that we do with immigration bond securitization or</p> <p>10 are you talking about this work too? Because</p> <p>11 obviously we did this work with him but we've</p> <p>12 never done any, like – I don't want to search for</p> <p>13 the question.</p> <p>14 Q Yeah. So you've never done any</p> <p>15 criminal bail bond or GPS tracking services</p> <p>16 through him?</p> <p>17 MS. PETERS: Object to form of the</p> <p>18 question. Track, it is a compound question.</p> <p>19 Q Prior to the immigration.</p> <p>20 MS. PETERS: Same objection.</p> <p>21 A No. There might have been a client who</p> <p>22 he had, that he needed GPS. I don't know that –</p>
<p>66</p> <p>1 A Correct. I use AIA and IFIC</p> <p>2 interchangeably.</p> <p>3 Q And then what about -- what bond agents</p> <p>4 were you working with?</p> <p>5 MS. PETERS: Object to form. During</p> <p>6 what period of time?</p> <p>7 Q Prior to working with RLI.</p> <p>8 A We worked with Marco LiMandri. We may</p> <p>9 have worked with another bail agent but again I'm</p> <p>10 not sure of the dates so I want to be -- I know</p> <p>11 that we worked with Marco.</p> <p>12 Q Is Marco the primary agent that Nexus</p> <p>13 worked with?</p> <p>14 A He is.</p> <p>15 MS. PETERS: Object to form.</p> <p>16 Q And when did you first form a</p> <p>17 relationship with Mr. LiMandri?</p> <p>18 A I don't recall.</p> <p>19 Q Would it have been prior to the</p> <p>20 formation of Nexus Services, Inc.?</p> <p>21 A Likely.</p> <p>22 Q Okay. Did you do bail bond work with</p>	<p>68</p> <p>1 we may have let him use a GPS bracelet or</p> <p>2 something like that for one of his clients but it</p> <p>3 would have been a one-off and it's not a service</p> <p>4 that we provided.</p> <p>5 Q And how did you come to know</p> <p>6 Mr. LiMandri?</p> <p>7 A I knew of him in the -- he was an</p> <p>8 officer, he's an officer with the Professional</p> <p>9 Bail Agents of the United States and everybody</p> <p>10 that has any understanding of bail knows</p> <p>11 Mr. LiMandri.</p> <p>12 Q And was your relate -- your</p> <p>13 relationship formed -- did you approach him for a</p> <p>14 business relationship with regard to bonding?</p> <p>15 A I had a conversation with him about</p> <p>16 immigrants and detention. He was an agent that</p> <p>17 wrote immigration bonds. And our initial</p> <p>18 conversations I think started around tell me how</p> <p>19 we can make this work from what people.</p> <p>20 Q Okay. Do you know prior to the</p> <p>21 formation of the relationship with RLI how many</p> <p>22 bonds had been issued with other -- how many</p>



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18 (69 to 72)

<p>69</p> <p>1 immigration bonds had been issued with other 2 sureties?</p> <p>3 <b>A I don't know.</b></p> <p>4 MS. PETERS: Object to form.</p> <p>5 Q Do you have an idea of range? Was it 6 1,000, 2,000, 3,000 bonds?</p> <p>7 MS. PETERS: Object to form. Calls for 8 speculation.</p> <p>9 <b>A I don't recall. But I could certainly 10 verify and find out for you.</b></p> <p>11 Q What records would you look at to 12 verify?</p> <p>13 <b>A I'm not immediately certain. I think I 14 would probably look at Capsule and search for 15 people that signed up during certain times. Does 16 that make sense?</b></p> <p>17 Q Yes. Okay. And prior to your 18 relationship with RLI with these other sureties, 19 did you generally have kind of the same business 20 model or protocol? In your words, were you 21 providing monitoring services of the immigrants?</p> <p>22 MS. PETERS: Object to form. Compound</p>	<p>71</p> <p>1 <b>seemed like he would be a good partner. He was 2 very interested. RLI seemed interested in the 3 business. They seemed to want to do it. So we 4 thought, you know, this was a good partner.</b></p> <p>5 Q Was there a particular reason you were 6 looking for another surety other than the two that 7 you already had?</p> <p>8 MS. PETERS: Object to form.</p> <p>9 <b>A I don't recall any specific. I don't 10 recall a specific reason of saying hey, you know, 11 we always look for vendors to partner with, new 12 vendor opportunities.</b></p> <p>13 Q Okay. All right. I'm going to mark 14 this Exhibit 2.</p> <p>15 (Donovan Exhibit 2 marked for 16 identification and attached to the transcript.)</p> <p>17 Q And this is a document dated May 1st, 18 2015, from Rick Nagel to Dave Sandoz and you're 19 copied on it.</p> <p>20 <b>A Okay.</b></p> <p>21 MS. PETERS: Take a moment to read the 22 entire document.</p>
<p>70</p> <p>1 question.</p> <p>2 <b>A So I think that our company, as all 3 companies do, your programs get better so we're 4 constantly evolving. So I can't say that it's the 5 same, but the same general services, the idea that 6 individuals generally speaking want to do the 7 right thing, Vivian, so if you give them the tools 8 and the resources to do the right thing generally 9 they will. And that's what we believe and that's 10 what we do.</b></p> <p>11 <b>Q And why were you looking for a new 12 surety in the early 2015 time frame?</b></p> <p>13 MS. PETERS: Object to form.</p> <p>14 <b>A As I remember, we had been introduced 15 to RLI through a law firm that we were working 16 with, and those -- I don't remember the -- the 17 details of those conversations but I do remember 18 that we were -- we initially had made the 19 introduction through them, began discussing what 20 with Dave Sandoz opportunities. Ultimately when 21 we went to RLI, we went to RLI because we believed 22 that RLI would be a good partner. Dave Sandoz</b></p>	<p>72</p> <p>1 Q Do you recognize this document?</p> <p>2 MS. PETERS: Object to form.</p> <p>3 <b>A I don't recognize it meaning I don't 4 remember it, but it appears that there's an email 5 with my email address on it.</b></p> <p>6 Q Okay. And is that your signature on 7 the second page at the bottom of the phone 8 conference?</p> <p>9 <b>A It would be, yeah. It looks like my 10 signature.</b></p> <p>11 Q And who is Rick Nagel?</p> <p>12 <b>A He was our director of government 13 affairs.</b></p> <p>14 Q And how long did Mr. Nagel remain 15 employed by Nexus?</p> <p>16 <b>A I don't recall.</b></p> <p>17 Q Do you know when Mr. Nagel ceased 18 working with Nexus?</p> <p>19 <b>A I don't recall specifically.</b></p> <p>20 Q Do you know the circumstances of why 21 Mr. Nagel stopped working with Nexus?</p> <p>22 <b>A I do.</b></p>

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19 (73 to 76)

<p>73</p> <p>1 MS. PETERS: I'm going to object to the</p> <p>2 form of the question to the extent it calls for</p> <p>3 confidential HR information subject to the</p> <p>4 protective order.</p> <p>5 MS. KATSANTONIS: Okay.</p> <p>6 MS. PETERS: But we'll allow the</p> <p>7 witness to answer reserving our right under the</p> <p>8 protective order.</p> <p>9 Q For what reason did Mr. Nagel leave</p> <p>10 Nexus, to your understanding?</p> <p>11 <b>A I need to consult with counsel. And</b></p> <p>12 <b>the issue is – and let me just be clear. I have</b></p> <p>13 <b>a – I want to make sure that a non-disparagement</b></p> <p>14 <b>clause doesn't get violated. I want to make sure</b></p> <p>15 <b>I can answer. That's what I'm – so I'd like</b></p> <p>16 <b>to –</b></p> <p>17 Q All right. Let's move on for now --</p> <p>18 <b>A Sure.</b></p> <p>19 Q -- and we can come back to it.</p> <p>20 <b>A Sure.</b></p> <p>21 Q All right. So looking at this phone</p> <p>22 conference, it says this call is the second</p>	<p>75</p> <p>1 form the basis of a business relationship between</p> <p>2 the two entities?</p> <p>3 MS. PETERS: Object to form.</p> <p>4 <b>A I knew that we were having a</b></p> <p>5 <b>conversation about potentially working together,</b></p> <p>6 <b>yes.</b></p> <p>7 Q Okay. And then it says, "Specifically</p> <p>8 Mr. Donovan confirmed that the program has</p> <p>9 approximately 2,174 participants." Right?</p> <p>10 <b>A That's what it says.</b></p> <p>11 Q Okay. And you signed this document?</p> <p>12 Do you have any reason to question the accuracy of</p> <p>13 it?</p> <p>14 <b>A I just don't recall it.</b></p> <p>15 MS. PETERS: Object to form.</p> <p>16 <b>A I'm sorry. I mean I don't have any</b></p> <p>17 <b>reason here to say I don't recall. Because I</b></p> <p>18 <b>don't recall.</b></p> <p>19 Q Right --</p> <p>20 <b>A I don't have a reason --</b></p> <p>21 Q -- but you don't have a reason to</p> <p>22 question the accuracy of this document that you</p>
<p>74</p> <p>1 contact between Nexus Services and RLI.</p> <p>2 Do you see that at the beginning?</p> <p>3 <b>A Yes.</b></p> <p>4 Q Okay. And it says, "Mr. Donovan</p> <p>5 answered many questions about the business</p> <p>6 structure and program performance and provided</p> <p>7 information related to the program's success."</p> <p>8 Do you see that?</p> <p>9 <b>A I do.</b></p> <p>10 Q So do you recall having a discussion</p> <p>11 with Mr. Sandoz where you explained to him the</p> <p>12 Nexus Services program in an effort to form a</p> <p>13 business relationship with RLI?</p> <p>14 MS. PETERS: Object to form.</p> <p>15 <b>A I remember conversations. I don't</b></p> <p>16 <b>remember – I don't recall the specific</b></p> <p>17 <b>conversation, it's five years ago, and I have a</b></p> <p>18 <b>lot of conference calls, to be honest. But it</b></p> <p>19 <b>appears that I was involved in it obviously and I</b></p> <p>20 <b>signed the paperwork.</b></p> <p>21 Q Right. And you understood you were</p> <p>22 providing information to Mr. Sandoz in part to</p>	<p>76</p> <p>1 signed, right?</p> <p>2 <b>A Right –</b></p> <p>3 MS. PETERS: Object to form.</p> <p>4 <b>A – other than the fact that I don't</b></p> <p>5 <b>recall it. So I can't recall specific things</b></p> <p>6 <b>about the call. That's the only –</b></p> <p>7 Q Sure. I understand that.</p> <p>8 MS. PETERS: Object to form.</p> <p>9 <b>Q Okay. And then it says, "Mr. Donovan</b></p> <p>10 <b>confirmed that the program has a success rate</b></p> <p>11 <b>defined as compelling respondent to appear in</b></p> <p>12 <b>immigration court of 99.7 percent."</b></p> <p>13 MS. PETERS: Object to form.</p> <p>14 <b>Q Do you see that?</b></p> <p>15 <b>A I do see that.</b></p> <p>16 <b>Q Okay. So to the best of your</b></p> <p>17 <b>recollection was that an honest statement at the</b></p> <p>18 <b>time?</b></p> <p>19 MS. PETERS: Object to form.</p> <p>20 <b>A I certainly don't make dishonest</b></p> <p>21 <b>statements.</b></p> <p>22 Q Okay. And under "Next Steps," you</p>



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20 (77 to 80)

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1 provided that Nexus would like to invite you and  
2 members of your team to the corporate headquarters  
3 in Verona, Virginia to observe our operations.  
4 MS. PETERS: I'm going to object to the  
5 form of the question to the extent it says you  
6 provided. It has not been established that  
7 Mr. Donovan wrote this document.  
8 MS. KATSANTONIS: Mr. Donovan approves  
9 the document, correct?  
10 MS. PETERS: He did.  
11 MS. KATSANTONIS: Okay. So I'm asking  
12 Mr. Donovan.  
13 Q When you signed approved by,  
14 Mr. Donovan, right, you're agreeing to the content  
15 of the recap of the conversation, correct?  
16 MS. PETERS: Object to form.  
17 **A I think when I signed this, I would**  
18 **have been approving the next steps. I mean, so**  
19 **honestly this is a recap of a call. So I don't --**  
20 **I don't think in the normal course of business I**  
21 **signed confirmation statements about conference**  
22 **calls. I think -- and I don't recall, but I think**

78

1 **if this were put in front of me today and asked**  
2 **did I sign it, I would assume that I am confirming**  
3 **the invitation and asking them to come and moving**  
4 **forward with the relationship. But, you know, I**  
5 **don't remember the actual document so I can't --**  
6 Q Right. But certainly if you thought  
7 there was any misstatement you would have advised?  
8 MS. PETERS: Object to form.  
9 **A I certainly wouldn't have agreed to**  
10 **something that wasn't accurate.**  
11 Q Okay. All right. And do you recall  
12 that Mr. Sandoz did come visit the Verona campus?  
13 **A I do believe that happened, yes.**  
14 Q Okay. And during that visit, do you  
15 recall advising Mr. Sandoz that Nexus had a  
16 scoring system to select detainees that are  
17 willing to work with -- excuse me, a scoring  
18 system to select the detainees that Nexus is  
19 willing to work with?  
20 MS. PETERS: Object to form.  
21 **A Do I remember having that conversation**  
22 **with Dave Sandoz?**

79

1 Q Right.  
2 **A No.**  
3 Q Is that an accurate representation that  
4 Nexus maintained a scoring system to select the  
5 detainees they were willing to work with --  
6 MS. PETERS: Object.  
7 Q -- in June of 2015?  
8 MS. PETERS: And I'm going to object to  
9 the form of the question. You're using the word  
10 "Nexus." By "Nexus" do you mean Nexus Services,  
11 Inc., or Libre by Nexus, Inc.? You haven't  
12 defined the term.  
13 MS. KATSANTONIS: Okay.  
14 Q For purposes of the questions, I'm  
15 going to ask Nexus or -- when I say "Nexus" from  
16 here forward, if you're comfortable with it, it'll  
17 include both Nexus and Libre. If you have a  
18 problem with that distinction you can make the  
19 distinction.  
20 MS. PETERS: I'm going to object to  
21 that. If you mean Nexus or Libre, I don't object.  
22 To the extent you say Nexus and Libre, this

80

1 witness would not waive any defenses currently  
2 pending in the case to your claims.  
3 Q Well, if you can make a distinction, go  
4 ahead.  
5 Did -- was there -- do you have any  
6 reason to doubt that the representation was made  
7 that Nexus or Libre has a scoring system to select  
8 the detainees they're willing to work with?  
9 **A No, I don't believe that I have any**  
10 **reason -- I do believe that that was stated.**  
11 **Under our old contract we did have such a metric**  
12 **of a scoring sheet, if you will.**  
13 Q Okay. And would that have been Libre  
14 or Nexus doing the scoring sheet?  
15 **A Libre.**  
16 Q Okay. And it says -- and then did you  
17 also advise that Libre or Nexus would be looking  
18 at immigrants that have been in the country for a  
19 long time, has family in the U.S., and has a job  
20 making income to support the family?  
21 MS. PETERS: Object to form. Compound  
22 question.

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21 (81 to 84)

<p>81</p> <p>1 Q Do you recall?</p> <p>2 <b>A I don't recall.</b></p> <p>3 Q Okay. Would that be an accurate</p> <p>4 statement of what Nexus Services did at the time</p> <p>5 of June 2015 in selecting detainees --</p> <p>6 MS. PETERS: Object --</p> <p>7 Q -- to issue -- to facilitate bonds?</p> <p>8 MS. PETERS: Object to form.</p> <p>9 <b>A I think --</b></p> <p>10 MS. PETERS: Misstates prior -- please</p> <p>11 let me finish the objection.</p> <p>12 THE WITNESS: Okay.</p> <p>13 MS. PETERS: Misstates prior testimony</p> <p>14 and a compound question.</p> <p>15 <b>A I'm going to ask you to repeat it. I'm</b></p> <p>16 <b>so sorry, Vivian.</b></p> <p>17 Q No, that's fine.</p> <p>18 Do you -- or do you know whether</p> <p>19 -- strike that.</p> <p>20 Did Nexus or Libre advise Mr. Sandoz</p> <p>21 that they selected immigrants for whom to provide</p> <p>22 the bonding for, those -- which would be</p>	<p>83</p> <p>1 said since you haven't put the piece of paper in</p> <p>2 front of the witness that you're reading from.</p> <p>3 I'd like to have the question that that relates</p> <p>4 to, the statement that that relates to read to me.</p> <p>5 MS. KATSANTONIS: You're really</p> <p>6 interrupting my deposition, Mary Donne. Let me</p> <p>7 just -- I asked the question. If Mr. Donovan</p> <p>8 didn't understand it, that's him. You're doing</p> <p>9 some, I don't even know, lawyering on the side</p> <p>10 that's irrelevant.</p> <p>11 So I'm asking him -- Mr. Donovan has</p> <p>12 already testified and I'm asking him do you have</p> <p>13 any reason to believe if Mr. Sandoz wrote down</p> <p>14 contemporaneously that he was advised that Nexus</p> <p>15 selects immigrants that have been in the country</p> <p>16 for a long time, has family there, and has a job</p> <p>17 making income to support that family, do you have</p> <p>18 any reason to doubt that that statement was made</p> <p>19 to Mr. Sandoz.</p> <p>20 MS. PETERS: Object to form.</p> <p>21 <b>A I don't think that that statement, as</b></p> <p>22 <b>it was read, would have been made to him. But I</b></p>
<p>82</p> <p>1 immigrants who had been in the country for a long</p> <p>2 time, had family there, and had a job making</p> <p>3 income to support the family?</p> <p>4 MS. PETERS: Object to the form of the</p> <p>5 question.</p> <p>6 <b>A I don't recall. I don't recall that</b></p> <p>7 <b>conversation. I don't recall those statements.</b></p> <p>8 Q If Mr. Sandoz wrote that, do you have</p> <p>9 any reason -- wrote that down as a contemporaneous</p> <p>10 note, do you have any reason to doubt that?</p> <p>11 MS. PETERS: Object to the form of the</p> <p>12 question. It was a compound question and I'd like</p> <p>13 to have the question read back to the witness.</p> <p>14 MS. KATSANTONIS: You can read the</p> <p>15 question back.</p> <p>16 (The requested text was read by the</p> <p>17 reporter as follows: "If Mr. Sandoz wrote that, do</p> <p>18 you have any reason -- wrote that down as a</p> <p>19 contemporaneous note, do you have any reason to</p> <p>20 doubt that?")</p> <p>21 MS. PETERS: I meant the question</p> <p>22 beforehand, where you're saying what the witness</p>	<p>84</p> <p>1 <b>don't recall.</b></p> <p>2 Q And why do you not think so?</p> <p>3 <b>A Because our clients don't typically</b></p> <p>4 <b>have jobs. Our clients typically are awaiting</b></p> <p>5 <b>work authorizations. So it just doesn't sound</b></p> <p>6 <b>like -- it doesn't sound like it makes sense. But</b></p> <p>7 <b>that being said, I don't remember the</b></p> <p>8 <b>conversation. I certainly don't remember saying</b></p> <p>9 <b>that to him.</b></p> <p>10 Q Okay. Did you advise Mr. Sandoz that</p> <p>11 the detainees have no criminal background?</p> <p>12 MS. PETERS: Object to form.</p> <p>13 <b>A No. I told Mr. Sandoz, as I tell most</b></p> <p>14 <b>people, that part of the tragedy of the American</b></p> <p>15 <b>immigration system is that the vast majority of</b></p> <p>16 <b>immigrants held in what is called civil detention</b></p> <p>17 <b>waste away for months if not years based on a</b></p> <p>18 <b>civil hold that has nothing to do with any</b></p> <p>19 <b>allegation of criminality whatsoever, A.</b></p> <p>20 <b>And B that the vast majority of</b></p> <p>21 <b>immigrants in this country, some 500,000 people a</b></p> <p>22 <b>day that we lock in concentration camps, the vast</b></p>

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22 (85 to 88)

<p>85</p> <p>1 majority of them have never had a criminal 2 conviction. And that's also true. That's what I 3 would have said.</p> <p>4 Q Okay. And so if Mr. Sandoz recorded 5 that you advised that the immigrants for which you 6 provide -- you request a bond be issued for has no 7 criminal background but simply came into the 8 country and didn't go through the right process to 9 become a legal citizen, you don't believe that's a 10 truthful statement?</p> <p>11 MS. PETERS: Object to form of the 12 question.</p> <p>13 A Can you repeat that, Vivian?</p> <p>14 Q Uh-huh.</p> <p>15 That no criminal -- that the immigrants 16 for whom you've requested a bond have no criminal 17 background but simply came into the country and 18 didn't go through the right process to become a 19 legal citizen.</p> <p>20 MS. PETERS: Object to form of the 21 question. Are you asking him if Mr. Sandoz wrote 22 that down or are you asking him if --</p>	<p>87</p> <p>1 MS. PETERS: Object to form. Please 2 show the witness the document if you're going to 3 read statements from the document.</p> <p>4 MS. KATSANTONIS: Mary Donne, I'm going 5 to conduct my deposition my way and you're happy 6 to ask him any other questions.</p> <p>7 MS. PETERS: That's just patently 8 unfair and I'm objecting to that.</p> <p>9 Q That the immigrant has no criminal 10 background but simply came into the country and 11 didn't go through the right process to become a 12 legal citizen?</p> <p>13 MS. PETERS: Object to the form of the 14 question. Are you asking him again if that's what 15 Mr. Sandoz wrote or what he said?</p> <p>16 MS. KATSANTONIS: Mary Donne, you're 17 being so obstreperous in this deposition. 18 Mr. Donovan and I have had a conversation. He 19 understands. He asked me to read it back to him. 20 So let me deal with taking the testimony from 21 Mr. Donovan and not you.</p> <p>22 MS. PETERS: It's just unfair to read a</p>
<p>86</p> <p>1 MS. KATSANTONIS: That's an accurate -- 2 MS. PETERS: -- that is a true 3 statement?</p> <p>4 MS. KATSANTONIS: Right.</p> <p>5 A Yeah, I think that's the problem. And 6 with all due respect, I think that that's where 7 I'm having a hard time. I'm having a hard time 8 with the question just because I have no idea what 9 he wrote down. When you ask the question I think 10 my mind's going there. I don't know what he wrote 11 down, right?</p> <p>12 Q Right.</p> <p>13 MS. PETERS: And for the record --</p> <p>14 Q Is that a truthful statement?</p> <p>15 A So, again, I would say that if this -- 16 if I had a conversation like this with Mr. Sandoz 17 or anybody else, it would be based on what is 18 happening in the American immigration system 19 because that's representative of our clients.</p> <p>20 Q Well, but --</p> <p>21 A So I might -- I might have -- and again 22 what was the specific?</p>	<p>88</p> <p>1 snippet of a document that you're not giving him.</p> <p>2 Q Do you have any reason to believe, 3 Mr. Donovan, that if Mr. Sandoz advised that he 4 was told that the immigrants for whom bonds would 5 be issued has no -- have no criminal background 6 but simply came into the country and didn't go 7 through the right process to become a legal 8 citizen, that that's a true statement?</p> <p>9 MS. PETERS: Object to the form of the 10 question.</p> <p>11 A I think it's --</p> <p>12 Q Do you have any reason to doubt that?</p> <p>13 A I think it's a true statement that the 14 vast majority of immigrants don't have criminal 15 histories. I think if I made a statement like 16 that, I would have been making a statement that 17 immigrants in detention largely don't have 18 criminal histories.</p> <p>19 Q Okay.</p> <p>20 A That would have been my statement.</p> <p>21 Q And you --</p> <p>22 MS. PETERS: And I'm going to object.</p>

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1 Unless you put that document in front of him, I  
2 can't tell whether you're reading it accurately or  
3 in context. And I'm not going to have this  
4 witness speculate. It is patently unfair. If  
5 you're going to introduce a document through  
6 verbal testimony, snippets of it, I'm asking you  
7 to give it to counsel and give it to the witness.  
8 MS. KATSANTONIS: Okay. I'm asking him  
9 whether the statement -- these representations  
10 were made by Nexus and whether they're accurate.  
11 MR. SHOREMAN: That's a good question.  
12 MS. KATSANTONIS: So that's the  
13 question.  
14 Q During Mr. Sandoz -- well, let me ask  
15 you this: Isn't it true that Nexus records  
16 meetings held in conference rooms or boardrooms at  
17 its Nexus campus?  
18 MS. PETERS: Object to form.  
19 **A I don't think it's generally true that**  
20 **we record meetings. I think that there are**  
21 **cameras in the office and that from time to time**  
22 **meetings get recorded, but there's no policy that**

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1 **says we record meetings in the office.**  
2 Q Okay. Is it generally Nexus' practice  
3 to keep recordings and surveillance of the  
4 hallways and entry doorways at the Verona campus?  
5 MS. PETERS: Object to form. At what  
6 point in time?  
7 **A There are cameras on the -- in the**  
8 **Verona campus. They do collect video and then**  
9 **that video is available for a certain period of**  
10 **time, as is most surveillance systems.**  
11 Q And the video also captures sound and  
12 discussions?  
13 MS. PETERS: Object to form.  
14 **A The cameras do capture sound and so if**  
15 **you're walking by and having a conversation, it**  
16 **might catch a snippet.**  
17 Q And do you have any recordings of any  
18 meetings with Mr. Sandoz?  
19 **A I do not.**  
20 Q Okay. Have you gone back to look to  
21 see if you have any recordings of any meetings  
22 with Mr. Sandoz?

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1 **A I have not.**  
2 Q Okay. So it's possible they exist?  
3 **A No.**  
4 MS. PETERS: Object to form.  
5 Q Why not?  
6 **A Because those security camera footage**  
7 **recycles after 30 days I believe, as is the**  
8 **general policy of Nest or whatever the company is.**  
9 **So, no, I don't think so. I didn't have any**  
10 **meetings with Mr. Sandoz in the last 30 days.**  
11 Q Okay. And do you have any video or  
12 recordings of any meetings with RLI or counsel or  
13 consultants for RLI?  
14 **A I do not.**  
15 Q Okay. And have you gone back to look  
16 for those?  
17 **A I have not.**  
18 Q So is it possible they exist?  
19 MS. PETERS: Object --  
20 **A Again, 30-day -- I haven't met with**  
21 **him.**  
22 MS. PETERS: Mr. Donovan wouldn't know,

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1 but counsel came to the campus for a document  
2 production and a document inspection and Nexus  
3 made the representation to you and to the special  
4 master that the cameras in the room where you  
5 would be sitting would be turned off, and that was  
6 in fact done.  
7 MS. KATSANTONIS: Okay. Well, that's  
8 not what my question is.  
9 MS. PETERS: Okay.  
10 MS. KATSANTONIS: I was asking a much  
11 broader question.  
12 MS. PETERS: Okay.  
13 Q My question was, do you have any videos  
14 or recordings of any meetings with RLI, any  
15 representative of RLI's, any counsel of RLI's, any  
16 consultants of RLI's?  
17 **A Not that I know of.**  
18 Q And do you have the capability to  
19 download and save those videos, notwithstanding  
20 that you're saying that they're deleted after 30  
21 days?  
22 **A I don't have the capability but it's a**



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24 (93 to 96)

<p>93</p> <p>1 technological deficiency. I think that we have to</p> <p>2 have the capability as a company.</p> <p>3 Q And do you know whether that was done?</p> <p>4 A I don't believe so.</p> <p>5 Q Okay. So when Mr. Sandoz was visiting</p> <p>6 you in Verona, do you -- did Nexus advise that it</p> <p>7 monitored immigrants using GPS tracking devices?</p> <p>8 MS. PETERS: Object to the form of the</p> <p>9 question. At what point? Do we have a year?</p> <p>10 MS. KATSANTONIS: We're at the visit of</p> <p>11 Dave Sandoz in June of 2015.</p> <p>12 MS. PETERS: Thank you.</p> <p>13 A I don't recall. But we do use GPS</p> <p>14 tracking devices.</p> <p>15 Q Okay. And so if Mr. Sandoz reported</p> <p>16 that you advised that you used GPS monitoring of</p> <p>17 immigrants, to the best of your knowledge, that</p> <p>18 would be a correct statement?</p> <p>19 MS. PETERS: Object to the form of the</p> <p>20 question. You're not putting the document in</p> <p>21 front of the witness.</p> <p>22 A I don't know anything about that</p>	<p>95</p> <p>1 Q Yes.</p> <p>2 A Thank you. Obviously I'm paying</p> <p>3 attention to my watch.</p> <p>4 Q Do you recall Mr. Sandoz advising that</p> <p>5 for issuing immigration bonds he wanted to work</p> <p>6 directly with Nexus and not through a bonding</p> <p>7 agent?</p> <p>8 MS. PETERS: Object to form.</p> <p>9 A I don't remember that.</p> <p>10 Q Okay. Does Nexus or Libre prescreen</p> <p>11 detainees before requesting a bond to assess the</p> <p>12 risk of a bond breach?</p> <p>13 MS. PETERS: Object to form.</p> <p>14 A Yes.</p> <p>15 Q Okay. And did you convey that fact to</p> <p>16 Mr. Sandoz?</p> <p>17 MS. PETERS: Object to form. At what</p> <p>18 point in time?</p> <p>19 A I don't recall.</p> <p>20 Q And is criminal -- is the criminal</p> <p>21 history of a detainee something that's considered</p> <p>22 in that prescreening process?</p>
<p>94</p> <p>1 statement or that conversation, but it is</p> <p>2 certainly true that we issue GPS.</p> <p>3 Q And do you use GPS 24 hours a day, 7</p> <p>4 days a week?</p> <p>5 MS. PETERS: Object to the form of the</p> <p>6 question.</p> <p>7 Q For immigrants.</p> <p>8 MS. PETERS: Overbroad.</p> <p>9 A Clients have the GPS units and when</p> <p>10 they're worn, they're worn 24 hours a day. That</p> <p>11 would be a true statement. In other words, they</p> <p>12 can't just take them off. They're, like, locking.</p> <p>13 Q Okay. And do you recall advising</p> <p>14 Mr. Sandoz that the average size bond is \$10,000?</p> <p>15 MS. PETERS: Object to the form.</p> <p>16 A I don't recall. Vivian? Vivian?</p> <p>17 Could we break at 12:30? That would give me a</p> <p>18 chance to -- I think that was an hour from when we</p> <p>19 started. There's lunch out there. I just want to</p> <p>20 make sure that --</p> <p>21 Q It's 12:40.</p> <p>22 A Oh, can we break at 1:00?</p>	<p>96</p> <p>1 MS. PETERS: Object to form.</p> <p>2 A It was.</p> <p>3 Q And why is that?</p> <p>4 A At the time, it was -- it was on the --</p> <p>5 we adopted the Virginia pretrial risk assessment</p> <p>6 instrument, and it was part of the data that was</p> <p>7 collected on that instrument and it was part of</p> <p>8 the data that we naturally started collecting when</p> <p>9 we started using it.</p> <p>10 Q I'm going to -- does -- does the</p> <p>11 criminal history increase the likelihood of a bond</p> <p>12 breach risk?</p> <p>13 MS. PETERS: Object to form.</p> <p>14 A In a Virginia pre -- in a criminal case</p> <p>15 I think it does, yeah.</p> <p>16 Q In a criminal case? What do you mean</p> <p>17 by that?</p> <p>18 A I mean in a criminal case where an</p> <p>19 individual is facing criminal charges and</p> <p>20 ultimately a sentencing if they're convicted, a</p> <p>21 criminal history compounds the likelihood of a</p> <p>22 longer sentence.</p>



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25 (97 to 100)

<p>1       <b>So I think it's true that when you</b> 2 <b>consider likely reappearance in court for a</b> 3 <b>criminal defendant that criminal history is a</b> 4 <b>significant consideration.</b> 5       (Donovan Exhibit 3 marked for 6 identification and attached to the transcript.) 7       MR. HARRIS: This is 3? 8       MS. KATSANTONIS: Yes. 9       MR. HARRIS: Thank you. 10      MS. KATSANTONIS: Do you want another 11 copy? 12      Q   This is a document dated June 11th, 13 2015, and it's between Dave Sandoz and Rick Nagel. 14       And looking at the second page, so in 15 this email Mr. Sandoz is writing to Mr. Nagel 16 after his trip and he's asking for some initial 17 items, or reviewing some initial items. Do you 18 see that? 19      <b>A   Are we on the second page? Let me ask</b> 20 <b>you a question, Vivian.</b> 21      Q   Sure. 22      <b>A   Since you put this document in front of</b></p>	<p>1 from the back. 2       MS. PETERS: Okay. Can you identify it 3 by Bates label, please? 4       MS. KATSANTONIS: On RLI 330013. 5       MS. PETERS: And -- 6      <b>A   Got it.</b> 7       MS. PETERS: -- your question was? 8       MS. KATSANTONIS: I'm not asking a 9 question yet. I was just trying to walk 10 Mr. Donovan through the emails so we could try to 11 go a little bit quicker. 12      <b>A   Although, Vivian, if I could, I will</b> 13 <b>just say that you represented that that was the</b> 14 <b>conference call synopsis that I sent. It was a</b> 15 <b>conference call synopsis that looks like Rick</b> 16 <b>Nagel sent to Dave that was copied --</b> 17       MS. PETERS: That was my objection. 18      <b>A   I just want to make sure.</b> 19      Q   Sure. Well, I'm just trying to be 20 quick. I'm not asking a specific question. 21       We can go backwards on this. 22      <b>A   Going backwards is probably the easier</b></p>
<p>1 <b>me, it is a multipage document, do you have any</b> 2 <b>objection to me reading it before I ask -- answer</b> 3 <b>questions? Because I want to understand the</b> 4 <b>context of the document. It's a multipage</b> 5 <b>document.</b> 6       MS. PETERS: You have that right. 7      Q   Yeah, you absolutely can look through 8 it. I would say that -- 9      <b>A   It means a lot. So I don't want to be</b> 10 <b>disrespectful of your time, but, you know, I do</b> 11 <b>want to make sure I get a chance to read it.</b> 12      Q   Right. 13      <b>A   I guess our time.</b> 14      Q   So if you would like, I can walk you 15 back through the back. It starts with -- 16      <b>A   Yeah, I guess --</b> 17      Q   At the end it starts with your synopsis 18 of the conference call which we looked at earlier, 19 right? And then the next email talks about -- 20       MS. PETERS: I'm going to object to the 21 form. What page are you on? 22       MS. KATSANTONIS: Well, I'm starting</p>	<p>1 <b>way to do that.</b> 2      Q   Right. 3       So looking at the page ending in 12 -- 4      <b>A   Well, actually so I am on 13. I am</b> 5 <b>going to read back. I would like the time to do</b> 6 <b>that, though.</b> 7      Q   Sure. 8      <b>A   I just want to make --</b> 9      Q   Go ahead. 10     <b>A   -- sure I understand the document.</b> 11     Q   So Mr. Donovan, I'm -- 12       MS. PETERS: He's asked for a moment to 13 read. 14       MS. KATSANTONIS: No, I know. I know. 15 What I would like to do instead because we have 16 limited time is I'll ask the question and if you 17 are more comfortable answering the question by 18 reading all of it, that's fine. 19     <b>A   Sure.</b> 20     Q   Okay? But I think some of it -- this 21 is going to happen during the deposition and my 22 questions are going to be much simpler than</p>

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26 (101 to 104)

<p>101</p> <p>1 reading the whole document. So, for example, in 2 this instance, my question to you is looking at 3 the second page, 06 --</p> <p>4 <b>A (The witness complies.)</b></p> <p>5 Q -- do you recall whether or not 6 Mr. Sandoz advised that Nexus would be required to 7 execute an indemnity agreement as part of any 8 relationship for RLI to issue bonds?</p> <p>9 MS. PETERS: Object to form.</p> <p>10 <b>A I don't recall that specifically. I</b> 11 <b>mean, if I read the document, I might recall it.</b></p> <p>12 Q You don't recall that?</p> <p>13 <b>A I mean I'm sure it happened. I just</b> 14 <b>don't recall the specific conversation. Like I</b> 15 <b>don't recall these emails. I might recall them if</b> 16 <b>I read them but I don't recall them. So I can't</b> 17 <b>tell you that I recall the email even if it's --</b></p> <p>18 Q Okay. I'm just asking did you under --</p> <p>19 MS. PETERS: Can you let him read the 20 document, please? This is just --</p> <p>21 MS. KATSANTONIS: Sure.</p> <p>22 <b>A Yeah, I think I need to read it.</b></p>	<p>103</p> <p>1 MR. HARRIS: Mr. Williams, we objected 2 to your presence at this deposition.</p> <p>3 MR. WILLIAMS: Okay, that's fine.</p> <p>4 MR. HARRIS: We're not going to have a 5 bunch of different lawyers objecting to every 6 question.</p> <p>7 MR. WILLIAMS: Conduct the deposition 8 in a proper way.</p> <p>9 <b>A I'll tell you what, guys. Listen, I'm</b> 10 <b>going to make this easy. This doesn't have to be</b> 11 <b>a lawyer argument. I'm going to read this</b> 12 <b>document before I answer any of your questions,</b> 13 <b>and it's not a disrespectful thing. You put the</b> 14 <b>document in front of me -- I want to be as</b> 15 <b>helpful --</b></p> <p>16 Q That's fine.</p> <p>17 <b>A -- as I can be.</b></p> <p>18 Q That's fine.</p> <p>19 <b>A And so I want to read the document.</b> 20 <b>Thank you.</b></p> <p>21 MS. PETERS: Ms. Katsantonis, some of 22 these may not be connected to each other.</p>
<p>102</p> <p>1 Q Sure.</p> <p>2 <b>A I think I'm uncomfortable answering</b> 3 <b>questions about a 14-page document that I haven't</b> 4 <b>read. Does that make sense?</b></p> <p>5 Q Right. Okay. I'm going to try to 6 short-circuit this again, Mr. Donovan.</p> <p>7 Did you understand that in order to --</p> <p>8 MR. WILLIAMS: He just wants to read 9 the document.</p> <p>10 MS. KATSANTONIS: Okay.</p> <p>11 MR. WILLIAMS: That's the risk you bear 12 when you give a document to somebody that's long 13 is that they're going to want to read it. You've 14 got to let him read that document.</p> <p>15 MS. KATSANTONIS: I do but I'm not 16 interested in --</p> <p>17 MR. WILLIAMS: It doesn't matter what 18 you're interested in.</p> <p>19 MS. KATSANTONIS: It does. This is my 20 deposition, Mr. Williams.</p> <p>21 MR. WILLIAMS: No, it's his deposition.</p> <p>22 MS. KATSANTONIS: No, it --</p>	<p>104</p> <p>1 Is this a -- it is a composite exhibit 2 or is this an email chain in its native format?</p> <p>3 Because Mr. Donovan is not copied on some of these 4 emails, but he is on others.</p> <p>5 MS. KATSANTONIS: My understanding is 6 this is one email chain.</p> <p>7 MS. PETERS: In its native format 8 print?</p> <p>9 MS. KATSANTONIS: As far as I know.</p> <p>10 MS. PETERS: I'm not sure how that 11 would happen, then. And in fact it appears that 12 there's an email missing, potentially, out of page 13 14.</p> <p>14 MS. KATSANTONIS: Mary Donne, you can 15 use it on your own redirect. Okay? I have one 16 simple question that really doesn't even need this 17 document for, okay?</p> <p>18 Q So my question is, and you can hear the 19 question, Mr. Donovan, while you're reading, is 20 did you understand that RLI required Nexus to 21 execute an indemnity agreement as a condition to 22 issuing bonds at the request of Nexus?</p>

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27 (105 to 108)

<p>105</p> <p>1 MS. PETERS: Object to form. If you're</p> <p>2 asking him that question in the context of this</p> <p>3 document.</p> <p>4 MS. KATSANTONIS: I'm not. I'm just</p> <p>5 asking the question.</p> <p>6 Q Did you understand that?</p> <p>7 A I'm two pages away from being done and</p> <p>8 we could all be over. I'm two pages.</p> <p>9 Q Okay.</p> <p>10 A It's going to be very quick. I promise</p> <p>11 I'll work really fast.</p> <p>12 Q That's fine.</p> <p>13 A Oh, here it is.</p> <p>14 MS. PETERS: Was any portion of this</p> <p>15 exhibit redacted, Ms. Katsantonis?</p> <p>16 MS. KATSANTONIS: Not to my knowledge.</p> <p>17 MS. PETERS: When you do redactions are</p> <p>18 they via black or white out?</p> <p>19 MS. KATSANTONIS: Any redactions would</p> <p>20 be on our privilege log, Ms. Peters.</p> <p>21 A Okay, I finished.</p> <p>22 Q Okay. Did you understand that Nexus --</p>	<p>107</p> <p>1 requested that Nexus provide year-end financial</p> <p>2 statements; is that correct?</p> <p>3 MS. PETERS: Object to form.</p> <p>4 A I see that reference in the email, yes.</p> <p>5 Q And to the best of your knowledge, that</p> <p>6 was correct?</p> <p>7 MS. PETERS: Object to form.</p> <p>8 A To the best of my knowledge, that he</p> <p>9 asked for it?</p> <p>10 Q Right.</p> <p>11 A Yes. I believe. I mean, I'm reading</p> <p>12 it here, so...</p> <p>13 Q All right. And --</p> <p>14 A But I don't know that I was on this</p> <p>15 email so I can't confirm the email. But it</p> <p>16 certainly read -- reads it here.</p> <p>17 And if we could watch that 1:00 I just</p> <p>18 want to make sure I eat because being ill I</p> <p>19 don't --</p> <p>20 MS. PETERS: You know what, you've</p> <p>21 raised that two times. You look awfully pale. If</p> <p>22 you're -- if you need lunch, we will take a lunch</p>
<p>106</p> <p>1 excuse me.</p> <p>2 Did you understand that RLI required</p> <p>3 Nexus to execute an indemnity agreement in order</p> <p>4 to issue bonds at the request of Nexus?</p> <p>5 A I see it referenced here. I don't</p> <p>6 remember this email. I don't know if I was copied</p> <p>7 on it and I can't identify from the document</p> <p>8 whether I was. But I certainly see it here and I</p> <p>9 also signed an indemnity agreement.</p> <p>10 Q All right. So you understand that that</p> <p>11 was a requirement for issuing bonds?</p> <p>12 MS. PETERS: Object to form.</p> <p>13 A I would assume that we would have to</p> <p>14 have a contract before we start working together,</p> <p>15 yes.</p> <p>16 Q And you also understood that Mr. Sandoz</p> <p>17 requested collateral at the initiation of the</p> <p>18 relationship, correct?</p> <p>19 MS. PETERS: Object to form.</p> <p>20 A I do remember having conversations with</p> <p>21 Mr. Sandoz about collateral.</p> <p>22 Q All right. And Mr. Sandoz also</p>	<p>108</p> <p>1 break right now. We don't have to wait until 1:00</p> <p>2 because she's in between questions.</p> <p>3 A Okay. Let's do that. I think that</p> <p>4 would be good. Everybody could use lunch anyway,</p> <p>5 right?</p> <p>6 THE VIDEOGRAPHER: We are going off the</p> <p>7 record at 12:55.</p> <p>8 (Recess taken.)</p> <p>9 THE VIDEOGRAPHER: We are back on the</p> <p>10 record at 13:55.</p> <p>11 BY MS. KATSANTONIS:</p> <p>12 Q All right. So --</p> <p>13 A Vivian, can I just tell you for the</p> <p>14 record that during lunch I did get sick, so I from</p> <p>15 time to time may either cover the microphone or</p> <p>16 remove it from my body because I'm having stomach</p> <p>17 reactions that I don't want to cause embarrassment</p> <p>18 by showing up on a video. So if you see me do</p> <p>19 this or remove you'll understand why. Okay?</p> <p>20 Q Okay. If you need to take a break,</p> <p>21 obviously just let me know.</p> <p>22 A I will use that liberally. You don't</p>



Transcript of Micheal Paul Donovan  
Conducted on February 26, 2020

28 (109 to 112)

<p>109</p> <p>1 <b>want that to happen here.</b></p> <p>2 Q All right. So prior to the break we</p> <p>3 were talking about the formation of the</p> <p>4 relationship between RLI and Nexus. And we talked</p> <p>5 about the agreement of indemnity.</p> <p>6 And did you also understand that RLI</p> <p>7 requested financial information and financial</p> <p>8 statements from Nexus to review as a basis for</p> <p>9 forming the relationship?</p> <p>10 <b>A Oh, I see -- I see it on the email.</b></p> <p>11 Q Right. So you understood that RLI was</p> <p>12 reviewing the financials of Nexus as part of -- in</p> <p>13 order to form a basis to form the relationship</p> <p>14 with RLI and issue bonds, correct?</p> <p>15 MS. PETERS: Object to form.</p> <p>16 <b>A So I know that Dave Sandoz was</b></p> <p>17 <b>interested in having a relationship and was going</b></p> <p>18 <b>through a process to start that relationship. I</b></p> <p>19 <b>do see in this email specifically mentioning the</b></p> <p>20 <b>financial statements. I don't know that I was</b></p> <p>21 <b>copied on this email. It doesn't look like I was.</b></p> <p>22 <b>But I certainly am aware of it and I certainly</b></p>	<p>111</p> <p>1 MS. PETERS: Object to form.</p> <p>2 <b>A It certainly appears that this email is</b></p> <p>3 <b>me providing financials to Mr. Nagel.</b></p> <p>4 <b>I haven't read it. I haven't had an</b></p> <p>5 <b>opportunity to read it. So as the context of who</b></p> <p>6 <b>it was provided for, I would like a chance to read</b></p> <p>7 <b>it real quick. It's a lot shorter than the other</b></p> <p>8 <b>one, so.</b></p> <p>9 MS. PETERS: And I'm going to object to</p> <p>10 the form of the question in that it does not --</p> <p>11 the document itself does not include the word</p> <p>12 "financials."</p> <p>13 MS. KATSANTONIS: Mary Donne, I'm not</p> <p>14 doing your --</p> <p>15 Q This email --</p> <p>16 MS. KATSANTONIS: -- deposition but it</p> <p>17 says financials attached at the bottom. The</p> <p>18 attachment says three-year financials.</p> <p>19 <b>A So I want to -- I want to raise -- I</b></p> <p>20 <b>want to raise a real red flag here. This email</b></p> <p>21 <b>says that it's from me, but it's clearly not,</b></p> <p>22 <b>because I wouldn't be talking about appointing</b></p>
<p>110</p> <p>1 <b>have read the email.</b></p> <p>2 Q Right. And you -- but, in fact, you</p> <p>3 provided financials to RLI pursuant to their</p> <p>4 request to look at the financial condition of</p> <p>5 Nexus in order to make a determination to issue</p> <p>6 bonds on Nexus' behalf, correct?</p> <p>7 MS. PETERS: Object to form.</p> <p>8 <b>A Correct.</b></p> <p>9 Q Okay. And I'm going to mark this as an</p> <p>10 exhibit.</p> <p>11 (Donovan Exhibit 4 marked for</p> <p>12 identification and attached to the transcript.)</p> <p>13 Q This document dated June 17th, 2015,</p> <p>14 and it's attaching three-year financials.</p> <p>15 Do you recognize this document?</p> <p>16 MS. PETERS: Object to the form.</p> <p>17 Misstates the record.</p> <p>18 <b>A I don't recommend -- I don't recognize</b></p> <p>19 <b>the document off the top of my head but I'm</b></p> <p>20 <b>looking at it and reading it.</b></p> <p>21 Q Okay. Did you provide financials to</p> <p>22 Mr. Nagel to provide to RLI?</p>	<p>112</p> <p>1 agencies.</p> <p>2 <b>I don't know what you've given me, but</b></p> <p>3 <b>this doesn't -- you're -- you've given me an email</b></p> <p>4 <b>with the header with my name is on it and then an</b></p> <p>5 <b>email that's written by I would assume Dave Sandoz</b></p> <p>6 <b>but someone else. And that gives me great concern</b></p> <p>7 <b>because if you're giving me documents that have</b></p> <p>8 <b>cut and pasted data on it, I mean, I have -- I'm</b></p> <p>9 <b>entrusting that the documents are correct. Now I</b></p> <p>10 <b>have a real concern that every other document that</b></p> <p>11 <b>you've given me might not be correct, right?</b></p> <p>12 Q Okay. This is a document in the</p> <p>13 bottom -- do you see the Bates stamp Nexus in the</p> <p>14 bottom right-hand corner?</p> <p>15 <b>A Yes.</b></p> <p>16 Q That means it's a document that has</p> <p>17 been produced from your files. And there's</p> <p>18 paginations and then it's stamped on the left.</p> <p>19 That's the stamp that Nexus has used for its</p> <p>20 document productions.</p> <p>21 <b>A Well, I'm saying agency set up we are</b></p> <p>22 <b>ready to appoint you when you are ready.</b></p>

Transcript of Micheal Paul Donovan  
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29 (113 to 116)

113

1 Q I agree that the body of the email is  
2 from Mr. Sandoz to Rick.  
3 A What I'm telling you this is not my  
4 email. I can tell you that this is not my email  
5 because I wouldn't be appointing agencies. What  
6 you've --  
7 Q No, no, I agree --  
8 A -- asked me to read. This is not my  
9 email.  
10 Q I agree that the body of the email  
11 isn't what you wrote. But did you not, in  
12 response, forward to Mr. Nagel the financials?  
13 A Well, perhaps. But I accepted this --  
14 when you handed this to me, I accepted that this  
15 was an email from me. And then I'm reading it and  
16 it's not. So what I'm telling you is I can't  
17 confirm anything on this email because this --  
18 Q Okay. Do you --  
19 A -- doesn't appear to be accurate.  
20 Q Do you know that Nexus provided this  
21 three-year profit and loss projection to RLI?  
22 A I don't know. I'm sure we did, if

114

1 that's what we did. You know, I don't have an  
2 independent recollection of this document and --  
3 Q And you have no --  
4 A -- I would really like to know what  
5 email it was attached to because, again, I have  
6 real concerns about that.  
7 Q Okay. It says there's an attachment  
8 with three-year financials. When it says from  
9 Mike Donovan to Rick Nagel, attachment Nexus  
10 three-year financials, right?  
11 MS. PETERS: Object to form.  
12 A It does say that.  
13 Q And at the bottom it says financials  
14 attached.  
15 A But at the top it says, "Hi, Rick. I  
16 am back from some travel so I'm meeting this week  
17 with some folks who will be involved" --  
18 Q No, we're talking about the body of the  
19 email.  
20 A With all due respect, Vivian, the  
21 question is about the email.  
22 Q It's about -- does Mr. Nagel forward

115

1 you emails?  
2 A Not now. He doesn't work here.  
3 Q Did he forward you emails back in 2015?  
4 A As I'm sure everybody -- yeah. It  
5 would be a normal course of --  
6 Q Sure.  
7 A -- business, for sure.  
8 Q And then you would respond back to  
9 Mr. Nagel and perhaps attach -- send attachments  
10 in your response to Mr. Nagel?  
11 A Perhaps.  
12 MS. PETERS: Object to form.  
13 A I just have to be very clear that this  
14 is not my email. I just need to be very clear  
15 that this is not my email. That's what I'm trying  
16 to say. Like, I can't answer questions about this  
17 email because I don't know what this document is  
18 but I know it's not mine.  
19 Q You're talking about the body of the  
20 email. But at the top did you forward these  
21 three-year financials to Mr. Nagel?  
22 MS. PETERS: Object to form.

116

1 A Not in this email. I don't -- I don't  
2 know. I mean, I'm not saying I didn't, I'm just  
3 saying I don't know and I certainly didn't on this  
4 email because this email's not from me.  
5 Q Okay. Does anybody else at Nexus have  
6 authority to send emails on your behalf?  
7 MS. PETERS: Object to form.  
8 A No. Not at that time, anyway.  
9 Q Right. And it says from Mike Donovan  
10 on behalf of Mike Donovan at the top, right?  
11 MS. PETERS: Object to form.  
12 A Yeah. I don't know that I've ever seen  
13 my email say on behalf of. So that's odd. I mean  
14 maybe normally it says that. When I remember  
15 reading printouts of email chains I'm not sure.  
16 So that's odd.  
17 Q All right.  
18 A But what I do know is that the body of  
19 this email is not something I wrote.  
20 Q Right. Do you have any reason to  
21 dispute that this is a three-year profit and loss  
22 projection provided by Nexus to RLI?

Transcript of Micheal Paul Donovan  
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30 (117 to 120)

<p>117</p> <p>1 MS. PETERS: Object to form.</p> <p>2 <b>A I have several reasons to dispute this</b></p> <p>3 <b>email because it's not accurate. I don't know</b></p> <p>4 <b>about the financial statement.</b></p> <p>5 Q You don't know about the financial</p> <p>6 statement?</p> <p>7 <b>A I don't remember it. I don't recall it</b></p> <p>8 <b>specifically is what I'm saying.</b></p> <p>9 Q But you recall that RLI asked Nexus to</p> <p>10 provide financial statements, correct?</p> <p>11 <b>A Yes. And in fact saw that on the last</b></p> <p>12 <b>email.</b></p> <p>13 Q Okay. And so you don't have any --</p> <p>14 you're not aware of any evidence to dispute that</p> <p>15 this is a three-year profit and loss projection</p> <p>16 that was provided to -- to RLI on Nexus' behalf?</p> <p>17 MS. PETERS: Object to the form of the</p> <p>18 question.</p> <p>19 <b>A Can you repeat the question?</b></p> <p>20 Q You don't have any documentation or</p> <p>21 evidence to dispute that this is a three-year</p> <p>22 profit and loss projection that was provided to</p>	<p>119</p> <p>1 break, we were looking at a document and my</p> <p>2 question to you is, is this a financial profit and</p> <p>3 loss statement that you provided to RLI in</p> <p>4 response to a request for financial documents?</p> <p>5 MS. PETERS: Object to the form of the</p> <p>6 question. Misstates and misrepresents the</p> <p>7 document.</p> <p>8 <b>A The document is titled a profit and</b></p> <p>9 <b>loss projection and that would say that it was a</b></p> <p>10 <b>projection statement. It certainly appears to be</b></p> <p>11 <b>a document that I provided. I do remember working</b></p> <p>12 <b>on that request. I don't remember this document</b></p> <p>13 <b>specifically and I certainly don't remember the</b></p> <p>14 <b>email.</b></p> <p>15 Q Okay. And at the -- looking at the</p> <p>16 financial document at the top, it says 2015</p> <p>17 includes actual through May 31st, 2015,</p> <p>18 projections through December 31st.</p> <p>19 Is that correct?</p> <p>20 <b>A That's what it says, yes.</b></p> <p>21 Q All right. Okay.</p> <p>22 <b>A Yes, ma'am.</b></p>
<p>118</p> <p>1 RLI on behalf of Nexus in response to its request</p> <p>2 for financial information?</p> <p>3 MS. PETERS: Object to the form of the</p> <p>4 question.</p> <p>5 <b>A Only insofar as much as you've handed</b></p> <p>6 <b>me an email that purports to be an attachment that</b></p> <p>7 <b>is an email that says it's from me and it's not.</b></p> <p>8 <b>And I raise again that it's not. And I'm</b></p> <p>9 <b>concerned about the document that you attached --</b></p> <p>10 <b>or that you've given me because this is not</b></p> <p>11 <b>accurate.</b></p> <p>12 Q All right.</p> <p>13 <b>A I'm going to take a quick break. I</b></p> <p>14 <b>would like to consult with counsel.</b></p> <p>15 MS. KATSANTONIS: Okay.</p> <p>16 THE VIDEOGRAPHER: We are going off the</p> <p>17 record at 14:04.</p> <p>18 (Recess taken.)</p> <p>19 THE VIDEOGRAPHER: We are back on the</p> <p>20 record at 14:13.</p> <p>21 BY MS. KATSANTONIS:</p> <p>22 Q All right. Mr. Donovan. Prior to the</p>	<p>120</p> <p>1 Q And so it reflects actuals profit and</p> <p>2 loss for 2013, '14, and through May 2015, correct?</p> <p>3 MS. PETERS: Objection.</p> <p>4 <b>A Well, I think it says 2015 includes</b></p> <p>5 <b>actual through 5/31/2015. My guess would be that</b></p> <p>6 <b>that's based on LiteSpeed revenue reports.</b></p> <p>7 Q Right. And that 2013 and '14 would</p> <p>8 also include actual information, correct?</p> <p>9 MS. PETERS: Object to the form of the</p> <p>10 question.</p> <p>11 <b>A Presumably. But, you know, 2013, for</b></p> <p>12 <b>example, these are whole numbers so they're</b></p> <p>13 <b>rounded numbers so they're obviously based on, you</b></p> <p>14 <b>know, based on projections or based on what the</b></p> <p>15 <b>revenue was. Like \$195,000 for travel with your</b></p> <p>16 <b>sense doesn't seem -- like it sounds like that's</b></p> <p>17 <b>probably a rounded number. So I just want to be</b></p> <p>18 <b>clear. Total operating income, 1.8 million,</b></p> <p>19 <b>0000000 I just want to be clear.</b></p> <p>20 Q But you're representing that this is</p> <p>21 information that is derived from actual data,</p> <p>22 correct?</p>



Transcript of Micheal Paul Donovan  
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31 (121 to 124)

<p>121</p> <p>1 A Well --</p> <p>2 MS. PETERS: Object to the form of the</p> <p>3 question.</p> <p>4 A And it is. It would be based on actual</p> <p>5 data. I just want to be clear what the data is.</p> <p>6 Q And you understood that RLI was</p> <p>7 requesting this information in order to -- as a</p> <p>8 bases for issuing bonds on behalf of RLI?</p> <p>9 MS. PETERS: Object.</p> <p>10 A Well --</p> <p>11 Q I mean on behalf of Nexus.</p> <p>12 MS. PETERS: Object to the form.</p> <p>13 A I understand that Dave Sandoz was</p> <p>14 asking for this information. Dave Sandoz wanted</p> <p>15 to work with us. He wanted this program at RLI,</p> <p>16 and I was working with him. He was my contact</p> <p>17 with RLI, so...</p> <p>18 Q Right. Well, you understood, though,</p> <p>19 that he was asking for the indemnity agreement,</p> <p>20 the collateral agreement, and financial statements</p> <p>21 in order for -- that those were required</p> <p>22 components necessary in order for RLI to issue</p>	<p>123</p> <p>1 provided before the beginning of the business. I</p> <p>2 don't know. I know that that was something that</p> <p>3 we worked with Dave on. I'm not saying that they</p> <p>4 weren't, I just don't know. So you're asking me</p> <p>5 do I understand and I'm telling you yes on the two</p> <p>6 things, the indemnity agreement and the collateral</p> <p>7 agreement. I do remember signing those before any</p> <p>8 business was conducted. I don't know about the</p> <p>9 other.</p> <p>10 Q Okay. Well, we'll go through that</p> <p>11 because there's documents that will show you that</p> <p>12 those were required before they would issue bonds.</p> <p>13 But you don't recall that? Is that your</p> <p>14 testimony?</p> <p>15 A I don't recall.</p> <p>16 MS. PETERS: Object to the form.</p> <p>17 Q Okay. But you recall that you sent</p> <p>18 these financial documents back in June 2015 in</p> <p>19 response to Mr. Sandoz's request to complete my</p> <p>20 file for the indemnity, we would like to see your</p> <p>21 year-end financial statements?</p> <p>22 MS. PETERS: Object to the form.</p>
<p>122</p> <p>1 bonds on behalf of Nexus, correct?</p> <p>2 MS. PETERS: Object to the form of the</p> <p>3 question.</p> <p>4 A I know we had conversations about those</p> <p>5 things. I will say that Dave was incredibly</p> <p>6 supportive and collaborative in helping us sort</p> <p>7 of, you know, navigate this process. We were a</p> <p>8 young company at the time. So I mean he was very</p> <p>9 helpful. He explained what we needed. We got</p> <p>10 together, worked together, had him come to the</p> <p>11 campus, did a visit and then ultimately signed</p> <p>12 that indemnity agreement.</p> <p>13 Q Right. But you understood and -- you</p> <p>14 understood that before RLI could issue -- I had it</p> <p>15 right here -- before RLI could issue bonds it was</p> <p>16 going to require a signed indemnity agreement, a</p> <p>17 signed collateral agreement, and financial</p> <p>18 statements from Nexus, correct?</p> <p>19 MS. PETERS: Object to the form.</p> <p>20 A The signed indemnity agreement and</p> <p>21 signed collateral agreement, yes. I'm not a</p> <p>22 hundred percent sure if financial statements were</p>	<p>124</p> <p>1 A And when is this?</p> <p>2 Q That's in the email provided to you at</p> <p>3 the bottom.</p> <p>4 A As I've said, the email provided to me</p> <p>5 I don't recognize and I'm not prepared to testify</p> <p>6 to any of its contents because I don't know what</p> <p>7 it is. It appears to be -- I don't know. I don't</p> <p>8 recognize it. I can't confirm the email. I</p> <p>9 certainly can't confirm that I sent this email</p> <p>10 because as I told you before, I don't know that I</p> <p>11 did.</p> <p>12 So I can't confirm that I sent this</p> <p>13 email. If this question is specifically related</p> <p>14 to this email, my answer has to be I don't know,</p> <p>15 because I don't know what this email is.</p> <p>16 Q Okay. But you do -- you do confirm</p> <p>17 that Nexus sent this three-year profit and loss</p> <p>18 statement to RLI?</p> <p>19 MS. PETERS: Object to the form.</p> <p>20 A The projection, yes.</p> <p>21 Q Okay. And so with regard to an email</p> <p>22 that's been produced by Nexus that says from Mike</p>



Transcript of Micheal Paul Donovan  
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32 (125 to 128)

<p>125</p> <p>1 Donovan, how do you know whether or not that 2 has -- an email of yours? 3 MS. PETERS: Object to the form. 4 A Well, good question. So I immediately 5 am troubled with on behalf of Mike Donovan under 6 the "From: Mike Donovan." I don't recollect 7 seeing that on my emails typically when they're 8 printed. That makes me nervous. It makes me 9 think that maybe someone is using a relay client 10 or an Outlook or something like that. I don't 11 know. 12 So that's the first thing that makes me 13 nervous. And for the record, the individual 14 employee on this email is a person who we've been 15 in litigation with. I think I have to be careful 16 what I say because there are some agreements 17 that -- nondisparagement agreements there but 18 there are concerns about this email. 19 Q How are we in general going to know -- 20 if an email says from Mike Donovan or to Mike 21 Donovan, is it your contention that you don't know 22 if any of these emails are from you or not?</p>	<p>127</p> <p>1 Vivian, I promise you I'm not trying to be 2 argumentative. I just want to redline the fact 3 that I'm not comfortable testifying to anything 4 related to this email. I'm just telling you. 5 Because I don't recognize it. I don't know what 6 it is. And it's confusing enough. 7 Q Are you aware of any incident where 8 anyone has sent a fraudulent email under your 9 name? 10 A No. 11 Q And -- 12 A Well, actually, yes. We have -- I have 13 maybe 12 or 13 individuals who claim that they 14 were hired by Nexus. We later found out that 15 those were fraudulent emails. They were 16 individuals in foreign companies that were 17 contacted online. But it wasn't my email address. 18 But you asked the question I want to be very 19 honest. We did have that situation. 20 Q But you're not aware of any fraudulent 21 emails from your email address? 22 MS. PETERS: Object to the form.</p>
<p>126</p> <p>1 MS. PETERS: Object to the form of the 2 question. Argumentative. 3 A With all due respect, you put one email 4 in front of me. 5 Q No, I know. But I'm asking you how am 6 I supposed to know which emails are yours or not? 7 MS. PETERS: Object to the form of the 8 question. That is argumentative. If there's 9 something that you want to put in front of him in 10 particular. He's testified that he questions this 11 one. 12 Q Is there a way that you can tell by 13 looking at a document whether it's an email you 14 sent or not? 15 MS. PETERS: Object to the form. 16 A I would be concerned about any email 17 that says from and then on behalf of underneath 18 just because I'm not used to seeing that. I would 19 be concerned about any email that purports to be 20 from me but then has text from other people. I 21 would be concerned about that. For those reasons, 22 I am very, very concerned about this email, but</p>	<p>128</p> <p>1 A I'm not. 2 Q Okay. And you mentioned your 3 relationship with Mr. Sandoz. During the process 4 of forming a relationship with RLI, is it fair to 5 say you had a good relationship with Mr. Sandoz? 6 A I think that is fair, yeah. 7 Q Okay. 8 A He's a very nice guy. 9 Q And do you continue to have a 10 relationship with Mr. Sandoz? 11 A I do. I still think he's a nice guy. 12 Q Okay. And what is your current 13 relationship with Mr. Sandoz? 14 A You know, I -- I count on him as a 15 friend really. I mean, just as a former 16 colleague. We've worked together. We did this 17 work together. So, you know, he's a good person. 18 Q And do you have any reason to doubt -- 19 or have you ever had any reason to doubt any 20 statements made by Mr. Sandoz? 21 MS. PETERS: Object to the form. 22 Q As to whether --</p>

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<p>129</p> <p>1 MS. PETERS: Vague.</p> <p>2 Q -- they were accurate or not?</p> <p>3 MS. PETERS: Vague.</p> <p>4 A I don't know. He's always been honest</p> <p>5 with me it seems.</p> <p>6 Q Okay. Are you aware of any instance</p> <p>7 where Mr. Sandoz has lied or said something false</p> <p>8 to you?</p> <p>9 MS. PETERS: Object to form.</p> <p>10 A Not off the top of my head, no.</p> <p>11 Q Are you aware of any instance where</p> <p>12 Mr. Sandoz lied or said anything false to anybody</p> <p>13 else?</p> <p>14 MS. PETERS: Object to form.</p> <p>15 A Not that I'm aware of.</p> <p>16 Q Okay. Do you recall that Mr. Sandoz</p> <p>17 advised that Nexus would be required to post</p> <p>18 500,000 in collateral in order for RLI to begin</p> <p>19 issuing bonds on behalf of Nexus?</p> <p>20 A I do believe that that was where the</p> <p>21 conversation began, that it would be 500,000.</p> <p>22 Q And isn't it true that you requested --</p>	<p>131</p> <p>1 MS. PETERS: Object to the form.</p> <p>2 A I believe that was a discussion. I</p> <p>3 believe that ultimately we settled on a \$250,000</p> <p>4 collateral amount. I believe it was 250,000. And</p> <p>5 that it was going to be refunded after the year.</p> <p>6 MS. PETERS: Can I ask the videographer</p> <p>7 how much time we've used so far.</p> <p>8 THE VIDEOGRAPHER: About 1:40.</p> <p>9 MS. PETERS: 1:40?</p> <p>10 Q And do you recall that in about June of</p> <p>11 2015, Mr. Sandoz forwarded you the indemnity</p> <p>12 agreement for you to complete to indemnify but</p> <p>13 that you didn't enter into a relationship for</p> <p>14 another eight months?</p> <p>15 Do you recall that time lag?</p> <p>16 MS. PETERS: Object to form.</p> <p>17 A I don't recall. I don't challenge it,</p> <p>18 I just don't recall.</p> <p>19 Q Okay. And prior to RLI issuing any</p> <p>20 bonds, you executed an indemnity agreement,</p> <p>21 correct?</p> <p>22 MS. PETERS: I don't remember.</p>
<p>130</p> <p>1 Nexus requested Mr. Sandoz initially to reduce</p> <p>2 that amount and Mr. Sandoz said he could not and</p> <p>3 required 500,000 at the time of entering into the</p> <p>4 relationship with RLI and Nexus?</p> <p>5 MS. PETERS: Object to form.</p> <p>6 A I don't recollect that. I recollect</p> <p>7 Mr. Sandoz reducing the collateral amount to</p> <p>8 250,000 and offering to send it back to us at the</p> <p>9 end of the year. I do remember that.</p> <p>10 Q That was after the relationship had</p> <p>11 been formed quite some time, right?</p> <p>12 MS. PETERS: Object to form.</p> <p>13 A Perhaps. I don't have the documents in</p> <p>14 front of me --</p> <p>15 Q Okay.</p> <p>16 A -- but I -- yeah, but I remember that</p> <p>17 one, Vivian. I don't remember --</p> <p>18 Q Okay.</p> <p>19 A That's what I remember.</p> <p>20 Q And do you recall that -- or that Nexus</p> <p>21 agreed to provide 500,000 in collateral in five</p> <p>22 monthly installments of a hundred thousand each?</p>	<p>132</p> <p>1 A Could you repeat the question? I'm</p> <p>2 sorry.</p> <p>3 Q Prior to RLI issuing any bonds at the</p> <p>4 request of Nexus, you issued an indemnity</p> <p>5 agreement, correct?</p> <p>6 MS. PETERS: Object to form.</p> <p>7 A I didn't issue an indemnity agreement.</p> <p>8 I signed --</p> <p>9 Q Executed?</p> <p>10 A You mean -- executed. Yes, I executed.</p> <p>11 Q Did I say that wrong?</p> <p>12 A I think you said issue, but I may be</p> <p>13 wrong. I just don't want to answer the wrong</p> <p>14 question so I want to make sure.</p> <p>15 Q Right.</p> <p>16 A Forgive me, I'm not trying to be</p> <p>17 difficult here.</p> <p>18 Q Not at all.</p> <p>19 And did you also execute a collateral</p> <p>20 agreement prior to RLI issuing any bonds on behalf</p> <p>21 of -- or at the request of Nexus?</p> <p>22 A Yes, and in fact an indemnity agreement</p>

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34 (133 to 136)

<p>133</p> <p>1 and a collateral agreement were together and I</p> <p>2 understand operate together.</p> <p>3 Q What do you mean you understand operate</p> <p>4 together?</p> <p>5 A Well, my expectation was that the</p> <p>6 indemnity agreement and the collateral agreement</p> <p>7 was the expectation of Nexus' performance, right?</p> <p>8 So I understood what that performance expectation</p> <p>9 was based on what those documents said.</p> <p>10 Q So you understood your performance was</p> <p>11 you were obligated to comply with the indemnity</p> <p>12 agreement, correct?</p> <p>13 MS. PETERS: Object to form.</p> <p>14 Q Nexus was obligated to comply with the</p> <p>15 indemnity agreement, correct?</p> <p>16 A Well, I think we were obligated to</p> <p>17 comply with the indemnity agreement. I'm not sure</p> <p>18 you and I would agree on what the indemnity</p> <p>19 agreement actually says. So I want to be very</p> <p>20 careful to say yes, I do believe we were required</p> <p>21 to comply with the indemnity agreement but it</p> <p>22 seems we are in some disagreement over what</p>	<p>135</p> <p>1 in understanding contracts, you know, our clients</p> <p>2 sign a contract, it may have multi-parts, and my</p> <p>3 experience would be that those parts function</p> <p>4 together when we're talking about the same</p> <p>5 business. So forgive me when I say they function</p> <p>6 together. I mean they're about the same thing,</p> <p>7 right?</p> <p>8 THE WITNESS: Could I get some water?</p> <p>9 MS. PETERS: Yes, you may.</p> <p>10 THE WITNESS: Thank you. Thank you,</p> <p>11 sir.</p> <p>12 MR. HARRIS: Sure.</p> <p>13 THE WITNESS: I appreciate it.</p> <p>14 MS. PETERS: Can we have just a moment.</p> <p>15 THE VIDEOGRAPHER: We are going off the</p> <p>16 record at 14:30.</p> <p>17 (Recess taken.)</p> <p>18 THE VIDEOGRAPHER: We are back on the</p> <p>19 record at 14:40.</p> <p>20 BY MS. KATSANTONIS:</p> <p>21 Q All right. And we were talking about</p> <p>22 financial statements earlier, and you couldn't</p>
<p>134</p> <p>1 complying means.</p> <p>2 Q Right. And you understood that the</p> <p>3 collateral agreement, it's a separate agreement,</p> <p>4 right?</p> <p>5 A I don't think it was separate. I think</p> <p>6 it's together. I mean the collateral agreement</p> <p>7 and the indemnity, how could they be separate?</p> <p>8 Q Does the indemnity agreement reference</p> <p>9 the collateral agreement?</p> <p>10 MS. PETERS: Object to form.</p> <p>11 A I don't recall.</p> <p>12 Q It doesn't, does it?</p> <p>13 A I don't -- I don't recall.</p> <p>14 MS. PETERS: Object to form.</p> <p>15 Q And is the collateral agreement</p> <p>16 similarly an obligation you understood you were</p> <p>17 required to comply with?</p> <p>18 MS. PETERS: Object to form to the</p> <p>19 extent it calls for a legal conclusion.</p> <p>20 A I would think I would be required to</p> <p>21 comply with anything I signed. I would say,</p> <p>22 Vivian, if I could offer, you know, our contracts</p>	<p>136</p> <p>1 recall what was required.</p> <p>2 I'm going to show you and mark this as</p> <p>3 an exhibit.</p> <p>4 (Donovan Exhibit 5 marked for</p> <p>5 identification and attached to the transcript.)</p> <p>6 Q So this is an email chain between Dave</p> <p>7 Sandoz and you. And on January 20th, Mike [sic]</p> <p>8 Sandoz advises that he needs you to initial and</p> <p>9 date the last page of the general indemnity</p> <p>10 agreement.</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q Okay. And -- and then Mr. Sandoz, for</p> <p>14 collateral says, "Please insert in the collateral</p> <p>15 agreement how you are funding the collateral pool,</p> <p>16 i.e., five equal installments of a hundred</p> <p>17 thousand dollars to be received by surety on or</p> <p>18 before February 1st, March 1st, April 1st,</p> <p>19 May 1st."</p> <p>20 MS. PETERS: Object to form. Misstates</p> <p>21 what the document actually says.</p> <p>22 Q Do you recall that?</p>

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35 (137 to 140)

137	139
<p>1     <b>A</b>   <b>Yeah, I do recall initially having a</b> 2 <b>conversation about \$500,000 in collateral. When I</b> 3 <b>talked to you about the 250, that was a later</b> 4 <b>revision from Mr. Sandoz. But I do remember that</b> 5 <b>as a topic of conversation.</b> 6     <b>Q</b>   Right. And under financial statements 7 do you see that Mr. Sandoz was advising that he 8 needed the year end balance sheet and any 9 schedules which will show me the company's net 10 worth with schedules explaining various items? 11    <b>A</b>   <b>I do see that.</b> 12    <b>Q</b>   Okay. And then -- 13        (Donovan Exhibit 6 marked for 14 identification and attached to the transcript.) 15    <b>Q</b>   Oh, let me -- let me show you -- mark 16 two documents to have in front of you on 17 February 9th. 18        (Donovan Exhibit 7 marked for 19 identification and attached to the transcript.) 20        MS. PETERS: Is this Exhibit 6? 21        THE COURT REPORTER: That's 7. 22    <b>Q</b>   So on February 9th you transmitted to</p>	<p>1 collateral, correct? 2     <b>A</b>   <b>I think that specifically is exactly</b> 3 <b>what Mr. Sandoz instructed me to write on the</b> 4 <b>agreement, if I remember correctly from the prior</b> 5 <b>email. So I did that. And then, of course, you</b> 6 <b>know, he was gracious enough to lower the amount</b> 7 <b>of collateral necessary and offered to refund it,</b> 8 <b>which was really nice.</b> 9     <b>Q</b>   Well, you're talking many months later. 10    <b>A</b>   <b>I don't remember how many months. I do</b> 11 <b>know that he came to us and said that we didn't</b> 12 <b>need to post the \$500,000 collateral, that things</b> 13 <b>were going well. That he thought that any</b> 14 <b>collateral we did post we would be able to get</b> 15 <b>back by the end of the year.</b> 16    <b>Q</b>   We're going to get to that but that was 17 months later. We're talking now at the time that 18 you entered into the agreement. 19    <b>A</b>   <b>I'm not sure of the dates. I'm just</b> 20 <b>explaining to you.</b> 21    <b>Q</b>   Sure. Okay. And then did you 22 understand that Mr. Sandoz advised that in order</p>
138	140
<p>1 Mr. Sandoz the executed indemnity agreement, 2 right? 3     <b>A</b>   <b>It appears so, yeah.</b> 4     <b>Q</b>   And a collateral agreement, correct? 5     <b>A</b>   <b>It appears so, yes.</b> 6     <b>Q</b>   Okay. And are those your initials and 7 signatures on the bottom of the indemnity 8 agreement? 9     <b>A</b>   <b>They appear to be, yes.</b> 10    <b>Q</b>   And is that your signature on the 11 collateral agreement? 12    <b>A</b>   <b>Yes, it appears to be.</b> 13    <b>Q</b>   Okay. And for the collateral 14 agreement, there's written 500,000, a hundred 15 thousand paid monthly by check to RLI. Do you see 16 that? 17    <b>A</b>   <b>Yes.</b> 18    <b>Q</b>   Whose handwriting is that? 19    <b>A</b>   <b>It appears to be mine.</b> 20    <b>Q</b>   Okay. So at the time that you executed 21 the indemnity agreement you also executed a 22 collateral agreement, agreeing to pay 500,000 in</p>	<p>1 to start issuing bonds, he needed the balance 2 sheet from you, correct? 3     <b>A</b>   <b>I see that in this email.</b> 4        MS. PETERS: Object to form. 5     <b>Q</b>   And do you recall that you sent him the 6 balance sheet? 7        MS. PETERS: Object to form. 8     <b>A</b>   <b>I don't know. Is that what that says?</b> 9 <b>I'm not -- I don't see this attachment. But I</b> 10 <b>see -- I see a document that references an</b> 11 <b>attachment.</b> 12    <b>Q</b>   Okay. 13    <b>A</b>   <b>But I don't see the attachment.</b> 14        MS. KATSANTONIS: Mark this. 15        MS. PETERS: Is that 8? 16        THE COURT REPORTER: This is 8. 17        MS. KATSANTONIS: Here you go, Mary 18 Donne. 19    <b>Q</b>   So this is an email again between Mike 20 Donovan, you, and Dave Sandoz. In the middle it 21 says, "All looks good. Just need the balance 22 sheet of your 12/31/15 year-end financial</p>



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<p>1 statement."</p> <p>2 Do you see that on February 9th from</p> <p>3 Dave Sandoz to you in the middle of the front</p> <p>4 page?</p> <p>5 <b>A I do see that note from Dave Sandoz,</b></p> <p>6 <b>yes.</b></p> <p>7 Q He said, "We should be able to start</p> <p>8 tomorrow if I can get that for the file."</p> <p>9 Do you see that?</p> <p>10 <b>A I do see that, yes.</b></p> <p>11 Q Okay. So did you have an understanding</p> <p>12 that RLI would not issue bonds on behalf of Nexus</p> <p>13 without obtaining the balance sheet for Nexus</p> <p>14 first?</p> <p>15 MS. PETERS: Object to form.</p> <p>16 <b>A I think the email -- I mean I read the</b></p> <p>17 <b>email as it reads. Dave was asking for that and</b></p> <p>18 <b>we were starting a business. I mean, yes, he</b></p> <p>19 <b>asked for the balance sheet.</b></p> <p>20 Q Yeah, he says, "We should be able to</p> <p>21 start tomorrow if I can get this -- that for the</p> <p>22 file." Right?</p>	<p>141</p> <p>1 <b>so all of that's in there.</b></p> <p>2 Q Well, and you attached -- in fact you</p> <p>3 responded and you provided a balance sheet, right?</p> <p>4 MS. PETERS: Object to form.</p> <p>5 Q In the email I just handed you.</p> <p>6 MS. PETERS: Object to form.</p> <p>7 <b>A Right. That's -- yeah, that's what</b></p> <p>8 <b>this appears to be, yes.</b></p> <p>9 Q On February 10th, 2015, you forwarded</p> <p>10 to Mr. Sandoz --</p> <p>11 <b>A So this is -- this is another copy of</b></p> <p>12 <b>the same email, Vivian, right?</b></p> <p>13 Q Sorry.</p> <p>14 <b>A I just want to make sure. Or is it</b></p> <p>15 <b>not?</b></p> <p>16 Q On February 10th of 2016, you forwarded</p> <p>17 to Dave Sandoz a year end 2015 balance sheet,</p> <p>18 right?</p> <p>19 MS. PETERS: Object to form.</p> <p>20 Q The balance sheet is -- you said,</p> <p>21 "Please find attached our year end '15 balance</p> <p>22 sheet."</p>
<p>142</p> <p>1 MS. PETERS: Object to form.</p> <p>2 <b>A No, it says "just need the balance</b></p> <p>3 <b>sheet of your 12/31/15 year-end financial</b></p> <p>4 <b>statement."</b></p> <p>5 Q Right. Looking at the third sentence</p> <p>6 down, "We should be able to start tomorrow if I</p> <p>7 can get that for the file."</p> <p>8 <b>A Right.</b></p> <p>9 MS. PETERS: Object to form.</p> <p>10 Q Right?</p> <p>11 <b>A That's what it says.</b></p> <p>12 Q Okay. And so you understood that was</p> <p>13 required before RLI would issue bonds on -- at the</p> <p>14 request of Nexus, correct?</p> <p>15 MS. PETERS: Object to the form.</p> <p>16 <b>A Well, I recognize the email as an email</b></p> <p>17 <b>from me. I don't recall the email. So it's hard</b></p> <p>18 <b>for me to say in 2016 on the 10th of February</b></p> <p>19 <b>exactly how I was feeling or how I read this. But</b></p> <p>20 <b>obviously I understood, based on reading the</b></p> <p>21 <b>email, that he wanted the financial statement and</b></p> <p>22 <b>that we were beginning the project the next day,</b></p>	<p>143</p> <p>1 Correct?</p> <p>2 <b>A Right, it does say that, yes.</b></p> <p>3 Q And then attached is a balance sheet</p> <p>4 that's dated January 1st, 2016, correct?</p> <p>5 <b>A I see that.</b></p> <p>6 MS. PETERS: Object to form.</p> <p>7 Q And this form provides that Nexus</p> <p>8 Services has total capital of \$10,881,761; is that</p> <p>9 correct?</p> <p>10 MS. PETERS: Object to form.</p> <p>11 <b>A That's what it says on the form,</b></p> <p>12 <b>yeah -- on the sheet.</b></p> <p>13 Q All right. And on the Nexus Services</p> <p>14 balance sheet, the cash and the accounts</p> <p>15 receivable, those are funds that would have been</p> <p>16 received from Libre by Nexus, correct?</p> <p>17 MS. PETERS: Object to form.</p> <p>18 <b>A Yeah. But these are -- these are whole</b></p> <p>19 <b>numbers. So, again, they're obviously rounded</b></p> <p>20 <b>numbers. I mean that's pretty clear.</b></p> <p>21 Q Right. But I'm saying that the assets</p> <p>22 that are listed on the balance sheet, the cash,</p>



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<p>145</p> <p>1 is -- and the accounts receivable, those are funds 2 from Libre by Nexus, correct? 3 MS. PETERS: Object to form. 4 <b>A They would be funds from Libre and to</b> 5 <b>the extent that any Homes revenue was, you know,</b> 6 <b>realized up. I don't know the specifics. I mean,</b> 7 <b>I would assume so, based on a general</b> 8 <b>understanding of, yes. But specifically, I don't</b> 9 <b>know. It's been a long time.</b> 10 Q Right. 11 <b>A And again I apologize to qualify all my</b> 12 <b>answers, Vivian, but I just want to be as direct</b> 13 <b>and helpful as possible.</b> 14 Q I appreciate it. 15 <b>A If I don't remember something I'm going</b> 16 <b>to tell you.</b> 17 Q Right. And in your email you say, "Can 18 we plan to submit the bonds tomorrow." 19 Correct? 20 <b>A It appears so, yes.</b> 21 Q And you also advised, "We have 22 processed the first installment of the</p>	<p>147</p> <p>1 <b>which of course is the subject of the collateral</b> 2 <b>agreement.</b> 3 <b>So I mean I certainly read them</b> 4 <b>together. I certainly understood they were</b> 5 <b>together. But I just wanted to make that point.</b> 6 Q Okay. 7 <b>A Because I was trying to remember what</b> 8 <b>it was when you had asked.</b> 9 Q Right. But there's no reference to 10 collateral agreement in the general indemnity 11 agreement, correct? 12 MS. PETERS: Object to form. Misstates 13 his prior testimony. 14 <b>A I think when it says Indemnitors will,</b> 15 <b>upon the request of the Surety, procure the</b> 16 <b>discharge of the Surety from any Bond,</b> 17 <b>unattainable. And then there's will, if requested</b> 18 <b>by the Surety, either deposit collateral with</b> 19 <b>Surety, acceptable to the Surety submission.</b> 20 <b>So I think that is obviously</b> 21 <b>referencing the collateral agreement. I mean, I</b> 22 <b>think a plain reading. I would have read it that</b></p>
<p>146</p> <p>1 collateral." 2 Correct? 3 <b>A I see that, yeah.</b> 4 Q Okay. And was that a truthful 5 statement when you made it, that the first 6 installment of collateral had been processed? 7 MS. PETERS: Object to form. 8 <b>A I would certainly assume so. I mean, I</b> 9 <b>wrote it. I don't -- I don't remember this email.</b> 10 <b>I don't remember the -- I don't remember what was</b> 11 <b>happening and so I can't -- I can't independently</b> 12 <b>right now tell you I remember on this day. But I</b> 13 <b>wrote it so I would assume so.</b> 14 Q Okay. And let's look at the indemnity 15 agreement that you executed. 16 <b>A Oh, and Vivian, I will say just because</b> 17 <b>I remembered it when we talked before. You had</b> 18 <b>asked me whether I thought the agreements were</b> 19 <b>connected and I told you they were and then you</b> 20 <b>asked if the agreements referenced one another.</b> 21 <b>So my read of 3 d. related on the indemnity</b> 22 <b>agreement related -- it's all about collateral,</b></p>	<p>148</p> <p>1 <b>way. I did read it that way. That's my</b> 2 <b>understanding.</b> 3 MS. PETERS: I would ask the witness to 4 please go a little slower -- 5 THE WITNESS: I'm so sorry. 6 MS. PETERS: -- for the court reporter. 7 THE WITNESS: I feel horrible. I'll 8 blame it on my illness. 9 MS. PETERS: No, you talk fast. 10 THE WITNESS: I talk fast all the time. 11 That's true. 12 Q All right. So looking at the -- 13 <b>A I'm going to have to take a biologic</b> 14 <b>break. I'm sorry.</b> 15 MS. KATSANTONIS: All right. 16 THE VIDEOGRAPHER: We are going off the 17 record at 14:55. 18 (Recess taken.) 19 THE VIDEOGRAPHER: We are back on the 20 record at 14:59. 21 BY MS. KATSANTONIS: 22 <b>A For what it's worth, if we have to go</b></p>

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<p>149</p> <p>1 back off again I'm going to try to say bio break</p> <p>2 and ask you to cut -- I don't want -- the visual</p> <p>3 of me running off camera doesn't look good.</p> <p>4 Q Sure.</p> <p>5 A I just don't want that. You know what</p> <p>6 I mean?</p> <p>7 Q Yeah, that won't --</p> <p>8 A So I am going to try to say bio break</p> <p>9 and like raise my hand and that will be like my</p> <p>10 cue because, you know.</p> <p>11 Q No problem, sorry.</p> <p>12 A I apologize.</p> <p>13 Q No, I apologize. I feel bad you're not</p> <p>14 feeling well.</p> <p>15 A I'd be having more fun, Vivian.</p> <p>16 Q So we just looked at the general</p> <p>17 indemnity agreement that you executed and the</p> <p>18 collateral agreement that you executed, correct?</p> <p>19 A Correct.</p> <p>20 Q Now, to the best of your knowledge and</p> <p>21 belief, did Nexus Services fully comply with the</p> <p>22 indemnity agreement?</p>	<p>151</p> <p>1 this a long time ago. I wish we could have signed</p> <p>2 a confidentiality agreement a long time ago. I</p> <p>3 think, you know, ultimately things would have been</p> <p>4 better.</p> <p>5 Q And to the best of your knowledge and</p> <p>6 belief, did Nexus fully comply with the collateral</p> <p>7 agreement and receipt?</p> <p>8 A I do believe we did as it relates to</p> <p>9 the abridged version of collateral that Mr. Sandoz</p> <p>10 said that we had to provide, although I do</p> <p>11 understand that there is a disagreement between</p> <p>12 RLI and Nexus about how much collateral is being</p> <p>13 held.</p> <p>14 Q What do you mean the abridged version?</p> <p>15 A I mean when he said that we didn't have</p> <p>16 to post the 500,000.</p> <p>17 Q Okay. So what is your understanding of</p> <p>18 what Mr. Sandoz said you did have to post?</p> <p>19 A I believe it was 250,000 that would be</p> <p>20 returned at the end of the year.</p> <p>21 Q Okay.</p> <p>22 A And I believe that portions of that</p>
<p>150</p> <p>1 MS. PETERS: Object to the form to the</p> <p>2 extent it calls for a legal conclusion.</p> <p>3 A I'm proud to say we stood in front of</p> <p>4 RLI and paid funds as required. I know we have</p> <p>5 had some disagreement over when but I think that</p> <p>6 if we look at the record we have complied with the</p> <p>7 general indemnity agreement and that we have stood</p> <p>8 as an indemnitor for RLI.</p> <p>9 Q Okay. So -- and I appreciate that. So</p> <p>10 you're -- so to the best of your knowledge and</p> <p>11 belief, Nexus fully complied with the terms of the</p> <p>12 indemnity agreement?</p> <p>13 A I believe we have. I know that we had</p> <p>14 conflict -- conflict's the wrong word -- well,</p> <p>15 maybe not. I know we had conflict over</p> <p>16 confidentiality provisions. So understanding that</p> <p>17 we had serious conversations about that and that</p> <p>18 did delay the inspection of books and records,</p> <p>19 it's just, you know, an issue. But I believe that</p> <p>20 we complied.</p> <p>21 I believe that I attempted to have a</p> <p>22 good faith compliance. I wish we could have done</p>	<p>152</p> <p>1 were going to be -- portions of that were related</p> <p>2 to monies that were owed to the agent for</p> <p>3 exonerations, or something like that. But that</p> <p>4 was my understanding of Mr. Sandoz's email.</p> <p>5 Q Okay. But you -- you never executed</p> <p>6 any other agreement with regard to collateral,</p> <p>7 correct?</p> <p>8 A Correct. Well, I took that as</p> <p>9 direction from Mr. Sandoz. He was of course -- he</p> <p>10 is RLI to us until -- until we stopped working</p> <p>11 with RLI, then we met a bunch of RLI people. But</p> <p>12 until that time he was RLI to us.</p> <p>13 Q Right.</p> <p>14 A And RLI was telling us they didn't want</p> <p>15 the full 500,000, they only wanted half of that</p> <p>16 and that they were going to take that from</p> <p>17 commissions to the agent and then at the end of</p> <p>18 the year we'd get it all back.</p> <p>19 Q Well, we're going to get to that in a</p> <p>20 little bit more detail. That's months later. But</p> <p>21 with regard to even a request for 250,000 in</p> <p>22 collateral, that wasn't all going to come from</p>

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39 (153 to 156)

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1 commissions from an agent, was it?  
2 MS. PETERS: Object to form.  
3 **A I believe that there's an email that**  
4 **specifies a certain amount comes from that. It**  
5 **was an email from Mr. Sandoz, not from me. I**  
6 **don't want to recall it because of course I won't**  
7 **be able to recall it fully and I wouldn't be able**  
8 **to do it service. If you have it we can talk**  
9 **about it later, we can draw from it specifically.**  
10 Q Right. Did -- why would an agent  
11 provide collateral on behalf of Nexus? Does that  
12 make any sense to you?  
13 MS. PETERS: Object to form.  
14 **A It didn't make a lot of sense to me,**  
15 **although because -- the reason it made sense to me**  
16 **is because he was talking about refunding the**  
17 **entire amount at the end of the year anyway. So I**  
18 **just assumed that that's what was ultimately going**  
19 **to happen.**  
20 Q Do you have -- does Nexus or Libre or  
21 Homes or any of your Nexus entities, or you  
22 personally or Mr. Moore personally, have any

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1 interest in any business or entity that  
2 Mr. LiMandri also owns an interest?  
3 MS. PETERS: Object to form.  
4 **A No. I don't think so. No, I'm sure we**  
5 **don't.**  
6 Q Okay.  
7 **A I'm just trying to think. No, no.**  
8 Q And you have no agreement --  
9 **A He's an officer of the Professional**  
10 **Bail Agents of the United States. We have**  
11 **contributed to it. That would be the closest that**  
12 **we'd come.**  
13 Q Okay.  
14 **A To be clear.**  
15 Q You have no agreement or understanding  
16 with Marco LiMandri or Big Marco --  
17 **A LiMandri.**  
18 Q What is it?  
19 **A LiMandri.**  
20 Q LiMandri.  
21 **A Yes. You're really trying to make it**  
22 **Italian. It's already Italian.**

155

1 Q Or Big Marco. Or Big Marco.  
2 **A Big Marco.**  
3 Q We'll just call him Big Marco. Is that  
4 good?  
5 **A Sure.**  
6 Q Nexus or Libre or Homes or you  
7 personally or Mr. Moore personally have no  
8 agreement with Big Marco whereby Big Marco is  
9 responsible for liabilities of Nexus, Libre,  
10 Homes, you or Mr. Moore; is that true?  
11 MS. PETERS: Object to the form. Can  
12 you read that sentence back, please.  
13 (The requested text was read by the  
14 reporter as follows: "Nexus or Libre or Homes or  
15 you personally or Mr. Moore personally have no  
16 agreement with Big Marco whereby Big Marco is  
17 responsible for liabilities of Nexus, Libre,  
18 Homes, you or Mr. Moore; is that true?")  
19 MS. PETERS: Object to form.  
20 **A I don't think that's true.**  
21 Q Okay. So what agreement do you have  
22 with Big Marco in which he's responsible for the

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1 liability?  
2 **A It's not an agreement that we have with**  
3 **him. But I'm referenced on the I-352 as the**  
4 **individual who at -- request the bonds.**  
5 **Mr. LiMandri is a co-obligor on the I-352. I**  
6 **don't think I can honestly answer that he doesn't**  
7 **have liability because in the government's eyes he**  
8 **has liability. So in an effort to be completely**  
9 **transparent and make sure I don't answer anything**  
10 **inappropriately, I don't think I can say that.**  
11 I can say that we don't have -- he  
12 doesn't have a direct liability to us but he would  
13 have a liability on the bonds.  
14 Q Okay.  
15 **A As a co-obligor.**  
16 Q So other than on the bonds, does he  
17 have any responsibility to pay collateral or any  
18 such liability of Nexus or Libre or Homes?  
19 **A He's jointly --**  
20 MS. PETERS: Object to form.  
21 **A I'm so sorry. He's jointly and**  
22 **severally liable for the bonds pursuant to the**

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40 (157 to 160)

<p>157</p> <p>1 <b>I-352.</b></p> <p>2 Q Sure.</p> <p>3 A <b>Other than that he has no</b></p> <p>4 <b>independent – there's no agreement with us and</b></p> <p>5 <b>Marco that makes him liable to us.</b></p> <p>6 Q Right. And there's no reason he would</p> <p>7 pay your collateral to RLI, correct?</p> <p>8 MS. PETERS: Object to form.</p> <p>9 A <b>I think that – again, I don't know why</b></p> <p>10 <b>Dave Sandoz suggested that we do that. It made</b></p> <p>11 <b>sense given the fact that he was going to refund</b></p> <p>12 <b>it at the end of the year. I assumed that that</b></p> <p>13 <b>money was going to go to Marco at that time. And</b></p> <p>14 <b>I believe actually –</b></p> <p>15 Q So Big Marco --</p> <p>16 A <b>I believe -- and I'm so sorry, I don't</b></p> <p>17 <b>mean to interrupt you, but I do believe – I – I</b></p> <p>18 <b>believe those commissions – that that money</b></p> <p>19 <b>wasn't going to be paid to Marco until the end of</b></p> <p>20 <b>the first year anyway. So I think the way that</b></p> <p>21 <b>the timing worked when the money was going to be</b></p> <p>22 <b>refunded, when the collateral was going to be</b></p>	<p>159</p> <p>1 Q Does Nexus Services have any written</p> <p>2 agreements with Big Marco at all related to</p> <p>3 immigration bonds?</p> <p>4 MS. PETERS: Object to form.</p> <p>5 A <b>Yes, I believe we do.</b></p> <p>6 Q Okay. What kind of agreements do you</p> <p>7 have?</p> <p>8 A <b>You know, this has been a -- a</b></p> <p>9 <b>conversation where -- I know that we have an</b></p> <p>10 <b>agreement that was entered into. The only problem</b></p> <p>11 <b>is I don't know that it was executed,</b></p> <p>12 <b>counterexecuted. And so I'm not -- I'm not going</b></p> <p>13 <b>to say that it was because I'm not sure. I know</b></p> <p>14 <b>that we had a verbal agreement, an understanding</b></p> <p>15 <b>of how the process was going to work when we first</b></p> <p>16 <b>started. And I know that we have the GIA,</b></p> <p>17 <b>obviously, with RLI and then subsequent surety.</b></p> <p>18 Q Okay.</p> <p>19 MS. KATSANTONIS: So we've asked</p> <p>20 counsel for that agreement so we'll ask again for</p> <p>21 it.</p> <p>22 Q Now, with regard to the indemnity</p>
<p>158</p> <p>1 <b>refunded it would have been paid to Marco for the</b></p> <p>2 <b>first time at that point anyway. So I think – I</b></p> <p>3 <b>don't know, RLI held that money, I didn't hold</b></p> <p>4 <b>that money. RLI was responsible for that. I</b></p> <p>5 <b>wasn't responsible for that money. So I didn't</b></p> <p>6 <b>really think it's – I don't think it's fair for</b></p> <p>7 <b>me to have to testify to what happened with that</b></p> <p>8 <b>money. RLI was the company –</b></p> <p>9 Q What money are you referencing?</p> <p>10 A <b>Whatever the money is that Dave Sandoz</b></p> <p>11 <b>said he was going to, you know – that the</b></p> <p>12 <b>commission part that he was going to place in</b></p> <p>13 <b>collateral hold.</b></p> <p>14 <b>I – that was an email that came from</b></p> <p>15 <b>your company. I don't – I don't know. I</b></p> <p>16 <b>can't –</b></p> <p>17 Q Right. You don't have an agreement to</p> <p>18 that, correct?</p> <p>19 A <b>Correct. Just that I have that in</b></p> <p>20 <b>writing from the only person at RLI that I ever</b></p> <p>21 <b>did any business with, who was the person who</b></p> <p>22 <b>entered the agreement with us.</b></p>	<p>160</p> <p>1 agreement that you executed, let's take a look at</p> <p>2 the language of the indemnity agreement.</p> <p>3 A <b>(The witness complies.)</b></p> <p>4 Q So did you review the terms of the</p> <p>5 indemnity agreement prior to executing?</p> <p>6 A <b>I'm sure I did, yes.</b></p> <p>7 Q Okay. And you understood the terms</p> <p>8 when you executed the agreement?</p> <p>9 A <b>I believe I did.</b></p> <p>10 Q Okay. And did you understand that the</p> <p>11 purpose of the indemnity agreement was to ensure</p> <p>12 against any loss to RLI by having executed the</p> <p>13 bond for an immigrant detainee at the request of</p> <p>14 Nexus Services, Inc.?</p> <p>15 MS. PETERS: Object to the form of the</p> <p>16 question to the extent that it calls for a legal</p> <p>17 conclusion.</p> <p>18 MS. KATSANTONIS: Sure, I'm asking for</p> <p>19 his understanding.</p> <p>20 A <b>I'm going to have to ask you – I'm</b></p> <p>21 <b>sorry, I didn't hear that. Could you please</b></p> <p>22 <b>repeat?</b></p>



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41 (161 to 164)

<p>161</p> <p>1 Q No problem.</p> <p>2 Did you understand that the purpose of</p> <p>3 the indemnity agreement was to ensure against any</p> <p>4 loss to RLI by having executed bonds for an</p> <p>5 immigrant detainee at the request of Nexus</p> <p>6 Services?</p> <p>7 MS. PETERS: Objection to the form of</p> <p>8 the question to the extent it calls for a legal</p> <p>9 conclusion.</p> <p>10 A So --</p> <p>11 Q I'm looking at the second or third</p> <p>12 sentence.</p> <p>13 A I got you. Can we just pause for a</p> <p>14 second?</p> <p>15 Q Sure.</p> <p>16 A Right now because I'm having some --</p> <p>17 I'm kind of battling another occurrence. You're</p> <p>18 asking a very technical question related to this</p> <p>19 document and I'm -- I'm having a difficult time</p> <p>20 because I'm trying not to throw up. So what I</p> <p>21 would like to do is break so that I can take a</p> <p>22 walk around the other room and get myself composed</p>	<p>163</p> <p>1 Q Well, what makes you think you did?</p> <p>2 A We had a -- I believe that we had</p> <p>3 identified \$50,000 that was paid. I'm not a</p> <p>4 hundred percent sure of that. I'd have to look</p> <p>5 for the record. We were investigating this when</p> <p>6 the issue came up earlier in litigation.</p> <p>7 Q Right. Isn't it true that you -- Nexus</p> <p>8 has not provided any evidence of any cash payment</p> <p>9 ever made to RLI?</p> <p>10 MS. PETERS: Object to form.</p> <p>11 A I don't know. Because I haven't</p> <p>12 actually been providing you anything. So many,</p> <p>13 many people have and I can't speak to what they've</p> <p>14 provided you or what they've not provided you.</p> <p>15 I do know that I would have to look for</p> <p>16 that and, you know, I'm happy to do that.</p> <p>17 Q And didn't you retain counsel to look</p> <p>18 for that to answer that during this litigation?</p> <p>19 MS. PETERS: Object to form.</p> <p>20 A I retained counsel because you sued me,</p> <p>21 Vivian. Not specifically to look for a document.</p> <p>22 Q Well, did you request counsel to track</p>
<p>162</p> <p>1 so that I don't have to run out again.</p> <p>2 Q Okay.</p> <p>3 A And then I can address your question</p> <p>4 with a fresh mind. Is that possible?</p> <p>5 Q Sure.</p> <p>6 THE VIDEOGRAPHER: We are going off the</p> <p>7 record at 15:12.</p> <p>8 (Recess taken.)</p> <p>9 THE VIDEOGRAPHER: We are back on the</p> <p>10 record at 15:22.</p> <p>11 BY MS. KATSANTONIS:</p> <p>12 Q Okay. Prior to the break we had also</p> <p>13 talked about the collateral agreement that you</p> <p>14 executed. And you had some testimony about an</p> <p>15 email from Mr. Sandoz.</p> <p>16 What was your understanding of -- well,</p> <p>17 strike that.</p> <p>18 Did you ever provide any -- and by you</p> <p>19 I mean Nexus, Libre, or Homes, provide any form of</p> <p>20 cash collateral to RLI?</p> <p>21 A Yes, I believe so. Although I don't</p> <p>22 know how much or when.</p>	<p>164</p> <p>1 down whether any collateral payments have been</p> <p>2 made and -- and I believe in particular was</p> <p>3 Mr. Mullin, who was not able to identify any</p> <p>4 records to verify any cash payments made by Nexus</p> <p>5 to RLI?</p> <p>6 MS. PETERS: Object to the form of the</p> <p>7 question. Nexus has provided --</p> <p>8 MS. KATSANTONIS: No speaking</p> <p>9 objections.</p> <p>10 MS. PETERS: -- thousands of pages of</p> <p>11 bank records.</p> <p>12 MS. KATSANTONIS: Okay.</p> <p>13 A I would --</p> <p>14 MS. KATSANTONIS: Leading the witness,</p> <p>15 Mary Donne --</p> <p>16 Q Can you repeat the question?</p> <p>17 MS. KATSANTONIS: -- and inappropriate.</p> <p>18 A I'm sorry. No worries.</p> <p>19 Q Isn't it -- isn't it --</p> <p>20 A I didn't hear your question. Can you</p> <p>21 repeat it for me, please?</p> <p>22 Q Isn't it true that you -- that Nexus</p>

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42 (165 to 168)

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1 has not been able to identify or produce any  
2 documentation that evidences that it paid any cash  
3 to RLI as collateral?  
4 MS. PETERS: Object to form.  
5 **A Again, I don't know.**  
6 Q And who would know that answer?  
7 MS. PETERS: Object to form.  
8 **A I would guess our finance team. I**  
9 **would have to -- I would have to check and see. I**  
10 **would have to run a check to see and I'm happy to**  
11 **do that. I'm happy to search for canceled checks**  
12 **for RLI and do those independents searches.**  
13 **You're asking me --**  
14 Q Well, haven't you done that search --  
15 **A I haven't.**  
16 Q -- in response to our discovery  
17 requests?  
18 **A I didn't do it personally. You're**  
19 **asking me a direct question, I want to answer it**  
20 **directly. And so what I would say is I would have**  
21 **to go perform that search which I'm happy to do.**  
22 Q Through your finance team?

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1 **A Right.**  
2 Q And Mr. Moore is the head of your  
3 finance team?  
4 **A No. Mr. Moore is the executive vice**  
5 **president of our company so I guess in a sense**  
6 **he's the head of everything, as I am. But we have**  
7 **people that work in those teams.**  
8 Q And who does the finance team report  
9 to?  
10 **A To Mr. Moore.**  
11 Q Okay. And --  
12 **A Ultimately.**  
13 Q Well, you made a statement about 50,000  
14 so I'm trying to understand where you got that.  
15 **A That was what I -- that was what I**  
16 **understood.**  
17 Q From whom?  
18 **A I believe -- I believe it was a**  
19 **conversation -- I believe I had a conversation**  
20 **with Mr. Sandoz that confirmed that they had**  
21 **received an installment. And that's what I was**  
22 **referring to. But I don't -- I have to research**

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1 **it. I was under the impression that we had sent**  
2 **\$50,000. Mr. Sandoz is asking for more.**  
3 **My recollection is that when we were**  
4 **about to provide more, Mr. Sandoz came back and**  
5 **said we are actually not going to require this.**  
6 **We're going to take these monies, which was an**  
7 **offer that Mr. Sandoz and RLI made, not one that**  
8 **we requested. And I accepted it.**  
9 Q Okay. As you sit here today, you're  
10 not aware of any record which evidences cash  
11 collateral paid by Nexus, Libre, or Homes to RLI,  
12 correct?  
13 MS. PETERS: Object to form.  
14 **A I'm not aware of a specific record.**  
15 Q Okay. And we saw -- are you aware of  
16 any collateral that any of the defendants provided  
17 to RLI?  
18 MS. PETERS: Object to form.  
19 **A I'm not specifically aware of any**  
20 **transactions, but also wouldn't normally be unless**  
21 **I did them and I don't typically cut checks or do**  
22 **that, so...**

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1 Q We looked at your email of  
2 February 10th right before the bonds were issued.  
3 Were you advised that you were processing the  
4 first installment of the collateral, correct?  
5 **A Which one was that?**  
6 Q It was dated February 10th, 2016.  
7 **A Oh, yeah. I had to get it.**  
8 Q The top of the email.  
9 **A Right.**  
10 Q It says, "We processed the first  
11 installment of the collateral."  
12 Correct?  
13 **A It does say that.**  
14 (Donovan Exhibit 8 marked for  
15 identification and attached to the transcript.)  
16 MS. PETERS: Can you tell me what  
17 exhibit it is?  
18 THE WITNESS: Exhibit 8.  
19 MS. PETERS: Okay. Is it the first or  
20 second page of Exhibit 8?  
21 THE WITNESS: First page.  
22 **A I found it now.**

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43 (169 to 172)

<p>169</p> <p>1 MS. PETERS: Got it.</p> <p>2 Q And isn't it true that that collateral</p> <p>3 payment, that would have been the</p> <p>4 hundred-thousand-dollar payment, it's true that</p> <p>5 that was not processed, right?</p> <p>6 MS. PETERS: Object to form.</p> <p>7 A Well, no, it's not true. If I have</p> <p>8 said it was true. You probably need to understand</p> <p>9 that at this point in time, it's 2006, we're still</p> <p>10 a relatively small and rapidly growing company.</p> <p>11 Processed in my mind can be I sent an email or I</p> <p>12 walked by someone's office and said hey, process</p> <p>13 this, right?</p> <p>14 And when I say we have processed the</p> <p>15 first installment, it could very well be that I</p> <p>16 gave direction for the check to be cut or the</p> <p>17 transfer to be made. I don't know that because I</p> <p>18 don't remember but I just want to provide some</p> <p>19 context.</p> <p>20 Q But you know -- you know that in fact</p> <p>21 it was not processed, correct, that it was not --</p> <p>22 a cut was not -- a check was not cut and no</p>	<p>171</p> <p>1 know, I received a communication from him that</p> <p>2 said that we didn't have to pay any more</p> <p>3 collateral.</p> <p>4 Q To the best of your knowledge, you</p> <p>5 never sent a payment -- Nexus never sent the</p> <p>6 payment to RLI for a hundred thousand as an</p> <p>7 installment for the collateral?</p> <p>8 A I do not believe that we paid a hundred</p> <p>9 thousand dollars.</p> <p>10 Q Okay.</p> <p>11 MS. KATSANTONIS: Mark this document.</p> <p>12 (Donovan Exhibit 9 marked for</p> <p>13 identification and attached to the transcript.)</p> <p>14</p> <p>15 A But we did write business for RLI.</p> <p>16 Q All right. I'm showing you an email</p> <p>17 chain. And if you look at the page marked</p> <p>18 000334767 at the top, that's your email that says,</p> <p>19 "We have also processed the first installment of</p> <p>20 the collateral."</p> <p>21 Do you see that at the top of that</p> <p>22 page?</p>
<p>170</p> <p>1 payment was made to RLI for the hundred thousand</p> <p>2 dollars, correct?</p> <p>3 MS. PETERS: Object to form.</p> <p>4 A I don't know that a \$50,000 payment</p> <p>5 wasn't made. So I don't want to say that. I</p> <p>6 don't know that it wasn't. I believe that it was.</p> <p>7 Q Do you know --</p> <p>8 A That being said, I do not agree with</p> <p>9 any -- with any assertion that you would make that</p> <p>10 I had been untruthful, because I wasn't.</p> <p>11 Q I'm not making an assertion. I'm</p> <p>12 saying that a hundred thousand dollars that you</p> <p>13 had committed to pay pursuant to the collateral</p> <p>14 agreement was not paid, correct?</p> <p>15 MS. PETERS: I'm going to object to the</p> <p>16 form of the question as misstating other prior</p> <p>17 documents.</p> <p>18 Q Is that correct?</p> <p>19 A To the extent that it wasn't when Dave</p> <p>20 Sandoz reached back out to us and told us not to</p> <p>21 worry about it, that would -- I mean, I understand</p> <p>22 your concern about it. I'm just saying that, you</p>	<p>172</p> <p>1 A I'm actually going to read this real</p> <p>2 quick, if you don't mind.</p> <p>3 Q Uh-huh.</p> <p>4 MS. PETERS: Has this been marked as</p> <p>5 Exhibit 9?</p> <p>6 A Okay. Yeah, I've read it.</p> <p>7 Q Okay. So we were looking at the page</p> <p>8 that was 334767 at the top, which was the email</p> <p>9 that you had written saying, "We have also</p> <p>10 processed the first installment of the</p> <p>11 collateral."</p> <p>12 Correct?</p> <p>13 A I see that here, yes.</p> <p>14 Q Okay. And on March 3rd, almost a month</p> <p>15 later, Mr. Sandoz writes back and says, "Last</p> <p>16 month you indicated the first installment of the</p> <p>17 collateral was processed but it hasn't apparently</p> <p>18 been submitted yet."</p> <p>19 Right?</p> <p>20 A I see that, yep.</p> <p>21 Q Right. And so as of March 3rd, Nexus</p> <p>22 had not made the promised collateral installment</p>

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44 (173 to 176)

<p>173</p> <p>1 payment, correct?</p> <p>2 <b>A It appears that on March 3rd he was</b></p> <p>3 <b>looking for the installment payment, that's right.</b></p> <p>4 Q And Nexus had not made it yet.</p> <p>5 <b>A He indicates that it hadn't been</b></p> <p>6 <b>received --</b></p> <p>7 Q Right.</p> <p>8 <b>A -- in the email, yeah.</b></p> <p>9 Q And that's correct, right?</p> <p>10 MS. PETERS: Object to form.</p> <p>11 <b>A I don't have any reason -- I don't have</b></p> <p>12 <b>any reason to believe he's lying for sure, no.</b></p> <p>13 Q Right. And on March 7th, you write</p> <p>14 back and I'm looking in the middle of your email,</p> <p>15 "Thanks for the heads-up about the check and the</p> <p>16 willingness to start with the collateral payments</p> <p>17 on March 1st. I will make sure that is taken care</p> <p>18 of."</p> <p>19 Is that right?</p> <p>20 MS. PETERS: Object to form. Misstates</p> <p>21 what the document says.</p> <p>22 <b>A Yeah, I think I'm responding to him</b></p>	<p>175</p> <p>1 <b>I respond and say, "Thanks for the</b></p> <p>2 <b>willingness to start with the collateral payments</b></p> <p>3 <b>in March."</b></p> <p>4 <b>I was just responding --</b></p> <p>5 Q Right.</p> <p>6 <b>A -- to what he said.</b></p> <p>7 Q Right. Because you had not processed</p> <p>8 the payment on February 10th as you had advised in</p> <p>9 your February 10th email, correct?</p> <p>10 MS. PETERS: Object to form.</p> <p>11 <b>A I think you're trying to -- what I said</b></p> <p>12 <b>was --</b></p> <p>13 Q No, what I'm -- all I'm trying.</p> <p>14 <b>A Hold on because I want to make sure I'm</b></p> <p>15 <b>clear.</b></p> <p>16 Q Sure.</p> <p>17 <b>A What I said was he said that the check</b></p> <p>18 <b>hadn't been received. He said why don't we go</b></p> <p>19 <b>ahead and start in March, right?</b></p> <p>20 Q Early March.</p> <p>21 <b>A Right. I said we'll try to find the</b></p> <p>22 <b>check and thanks for your willingness to start in</b></p>
<p>174</p> <p>1 <b>when he suggests we start in March. When I say</b></p> <p>2 <b>"the willingness to start," I'm referring to</b></p> <p>3 <b>something that he said in the email that I'm</b></p> <p>4 <b>replying to. And it does say that I'll try to</b></p> <p>5 <b>track down the February check, which must be the</b></p> <p>6 <b>first installment --</b></p> <p>7 Q Well, doesn't --</p> <p>8 <b>A -- that I sent -- had been sent.</b></p> <p>9 Q Well, your March 7th email says, "and</p> <p>10 the willingness to start with the collateral</p> <p>11 payments in March" -- in March, right?</p> <p>12 <b>A That's right. Because he says in his</b></p> <p>13 <b>email in replying to you, "Why don't we start this</b></p> <p>14 <b>month and use early March as the first installment</b></p> <p>15 <b>for the collateral?"</b></p> <p>16 <b>I'm just responding to him saying,</b></p> <p>17 <b>"Thank you for stating that."</b></p> <p>18 <b>He states that in the email of</b></p> <p>19 <b>March 3rd if you'll look right under my March 3rd</b></p> <p>20 <b>email, March 7th, he states, "Why don't we start</b></p> <p>21 <b>this month and use early March as the first</b></p> <p>22 <b>installment for the collateral."</b></p>	<p>176</p> <p>1 <b>March. It was simply a reply to his statement of</b></p> <p>2 <b>hey, we'll go ahead and start in March.</b></p> <p>3 Q Right. And you understood that the</p> <p>4 collateral payment had not been made at that time,</p> <p>5 correct?</p> <p>6 MS. PETERS: Object to the form of the</p> <p>7 question. Misstates.</p> <p>8 <b>A No, I don't think that's true.</b></p> <p>9 Q So you believe that a collateral</p> <p>10 payment of a hundred thousand dollars had been</p> <p>11 made to RLI?</p> <p>12 <b>A I don't think --</b></p> <p>13 MS. PETERS: Object to form.</p> <p>14 <b>A I don't think I would have said I'm</b></p> <p>15 <b>going to try to track down the check if I</b></p> <p>16 <b>didn't -- if I knew that it hadn't been cut. If</b></p> <p>17 <b>you read the email, I said I'm going to track down</b></p> <p>18 <b>the February check.</b></p> <p>19 Q Did you ever track it down?</p> <p>20 <b>A I don't remember.</b></p> <p>21 MS. PETERS: Object to form.</p> <p>22 <b>A Probably not.</b></p>



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45 (177 to 180)

<p>177</p> <p>1 Q And in fact it wasn't made, right?</p> <p>2 MS. PETERS: Object to form.</p> <p>3 A I wasn't able to confirm that a</p> <p>4 February payment was made, as I recall.</p> <p>5 Q Right. And in fact Mr. Sandoz follows</p> <p>6 up on March 23rd and says, "I haven't received the</p> <p>7 first installment of the collateral and it's</p> <p>8 coming close to the end of the month. This is a</p> <p>9 reminder that the first installment has to be here</p> <p>10 in the office by March 31st."</p> <p>11 Right?</p> <p>12 A I see that, yeah.</p> <p>13 Q So as of March 31st, Nexus had not</p> <p>14 provided the first installment of the collateral</p> <p>15 to RLI, correct?</p> <p>16 MS. PETERS: Object to form.</p> <p>17 A I don't know. It says -- this email</p> <p>18 chain doesn't end on March 31st, it ends on</p> <p>19 March 28th. Are you asking me in relation to this</p> <p>20 email chain because it looks like --</p> <p>21 Q Right. You know --</p> <p>22 A -- as of March 8th no one has --</p>	<p>179</p> <p>1 previous answer I do believe a payment was made.</p> <p>2 So I'm not going to agree with you in a statement</p> <p>3 that no payment was made.</p> <p>4 I will say that as of March 28th, it</p> <p>5 appears the topic of conversation is they hadn't</p> <p>6 received a payment and I was responding to it. I</p> <p>7 will confirm that. I can read that from the</p> <p>8 email. But what I'm not willing to say is to</p> <p>9 contradict what I've already said, which is I</p> <p>10 believe a payment was made.</p> <p>11 Q You don't have any fact -- when you say</p> <p>12 "a payment was made," what are you talking about?</p> <p>13 A I believe a \$50,000 collateral payment</p> <p>14 was made. I think we've made that assertion.</p> <p>15 Q But that was -- that was months later,</p> <p>16 right --</p> <p>17 MS. PETERS: Object to form.</p> <p>18 Q -- that you're asserting it was made?</p> <p>19 MS. PETERS: Object to form.</p> <p>20 A I don't -- I don't know what you mean.</p> <p>21 Q Well, this --</p> <p>22 A I mean it's years later now.</p>
<p>178</p> <p>1 Q Well, you know it hasn't, right,</p> <p>2 because look at the email from -- the March 28th</p> <p>3 email?</p> <p>4 A Vivian.</p> <p>5 Q "I talked with Mike regarding the</p> <p>6 collateral. He's so happy we got off to a great</p> <p>7 start and apologizes for the day -- for the delay.</p> <p>8 We've had an internal issue with our CFO. We're</p> <p>9 conducting an audit. Mike wants to know if the</p> <p>10 3/31 collateral payment can be submitted on</p> <p>11 April 15th and then submit the May 1st payment on</p> <p>12 time."</p> <p>13 Right?</p> <p>14 A I see that, yeah.</p> <p>15 Q Okay. So in fact Nexus had not</p> <p>16 submitted the collateral payment pursuant to the</p> <p>17 collateral agreement at least as of March 28th,</p> <p>18 correct?</p> <p>19 MS. PETERS: Object to form.</p> <p>20 A It appears that as of March 28th, that</p> <p>21 was the status of this email communication. That</p> <p>22 being said, Vivian, as I've indicated before in a</p>	<p>180</p> <p>1 Q Well, this agreement -- this agreement,</p> <p>2 the collateral agreement you executed required the</p> <p>3 first installment to be in the amount of a hundred</p> <p>4 thousand, right?</p> <p>5 MS. PETERS: Object to form.</p> <p>6 A That was the initial agreement.</p> <p>7 Q Right. And then when you said the</p> <p>8 first installment is being processed, you were</p> <p>9 referencing the hundred thousand dollars, correct?</p> <p>10 MS. PETERS: Object to form.</p> <p>11 A I was referencing -- I referenced the</p> <p>12 fact that there was an install -- that we were</p> <p>13 processing it.</p> <p>14 Q The first installment?</p> <p>15 A I didn't reference the amount. I</p> <p>16 believe that the amount -- as I said, I believe</p> <p>17 that we paid \$50,000. I understand that you've</p> <p>18 asked for that to be substantiated. I understand</p> <p>19 that that may not be something that we can</p> <p>20 substantiate. We're very -- it's a very, very</p> <p>21 busy time.</p> <p>22 Q Right, but you don't have any</p>

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46 (181 to 184)

<p>181</p> <p>1 evidence --</p> <p>2 <b>A But what I will say -- I'm sorry.</b></p> <p>3 MS. PETERS: Object to form.</p> <p>4 Q Sorry.</p> <p>5 <b>A I'm sorry.</b></p> <p>6 MS. PETERS: Please let him finish his</p> <p>7 answer.</p> <p>8 <b>A That being said, I think it's important</b></p> <p>9 <b>to note that RLI through this process was very,</b></p> <p>10 <b>very accommodating, I think because they wanted to</b></p> <p>11 <b>be in this business, clearly, and willing to work</b></p> <p>12 <b>with us. And I really appreciate that. And that</b></p> <p>13 <b>ultimately culminated in Dave saying, "Don't worry</b></p> <p>14 <b>about the collateral," which I think is a very</b></p> <p>15 <b>important part of this conversation.</b></p> <p>16 Q When did Dave tell you "Don't worry</p> <p>17 about the collateral"?</p> <p>18 <b>A There was an email that said that the</b></p> <p>19 <b>commissions that RLI pays to the bail agent were</b></p> <p>20 <b>going to be used for that, as I understood it, and</b></p> <p>21 <b>then paid to Marco.</b></p> <p>22 Q As of the time of this email you're</p>	<p>183</p> <p>1 Q -- 2016?</p> <p>2 MS. PETERS: Object to form.</p> <p>3 <b>A I can't tell you that RLI didn't</b></p> <p>4 <b>receive a payment before March 28th, because I</b></p> <p>5 <b>believe we did make a payment and I don't know</b></p> <p>6 <b>when we made it. That being said, I consider that</b></p> <p>7 <b>the term, that that is the subject line of the</b></p> <p>8 <b>email and that the content of the email is as you</b></p> <p>9 <b>described it. And it speaks for itself. That</b></p> <p>10 <b>being said, I can't tell you under oath that a</b></p> <p>11 <b>payment was made before or after a certain date</b></p> <p>12 <b>because, as I've told you, I don't remember.</b></p> <p>13 MS. PETERS: How much time on the tape?</p> <p>14 MS. KATSANTONIS: We've got five hours.</p> <p>15 THE VIDEOGRAPHER: 233.</p> <p>16 MS. PETERS: Pardon?</p> <p>17 THE VIDEOGRAPHER: 233.</p> <p>18 MS. PETERS: We do not have five hours.</p> <p>19 MS. KATSANTONIS: Four and a half.</p> <p>20 MS. PETERS: Four and a half.</p> <p>21 THE WITNESS: I'm sure it will be five</p> <p>22 with breaks. Speaking of, I'm going to take this</p>
<p>182</p> <p>1 referencing, isn't it true that Nexus had made no</p> <p>2 collateral payments whatsoever to RLI?</p> <p>3 MS. PETERS: Object to form.</p> <p>4 <b>A You did that again. See, I'm not</b></p> <p>5 <b>going -- I told you that I believe we did make a</b></p> <p>6 <b>payment so I'm not going to --</b></p> <p>7 Q Prior to Mr. Sandoz's email. I'm</p> <p>8 trying to put it in context of time.</p> <p>9 <b>A Oh, I'm not sure. I don't know when</b></p> <p>10 <b>that payment was made.</b></p> <p>11 Q That's what I'm trying to understand.</p> <p>12 <b>A Yeah, I'm sorry. I didn't understand</b></p> <p>13 <b>that. I apologize.</b></p> <p>14 Q So the emails we're looking at is as of</p> <p>15 March 28th, on March 28th, Nexus, you know, the</p> <p>16 subject is first collateral installment, right?</p> <p>17 <b>A Uh-huh.</b></p> <p>18 Q So it would -- you would agree that</p> <p>19 that likely is the first -- that RLI had not</p> <p>20 received any collateral payments as of</p> <p>21 March 28th --</p> <p>22 MS. PETERS: Object to form.</p>	<p>184</p> <p>1 opportunity since you're getting some documents</p> <p>2 ready I'm going to go. I'll be right back.</p> <p>3 MS. KATSANTONIS: Okay.</p> <p>4 THE VIDEOGRAPHER: We are going off the</p> <p>5 record at 15:43.</p> <p>6 (Recess taken.)</p> <p>7 THE VIDEOGRAPHER: We are back on the</p> <p>8 record at 15:57.</p> <p>9 BY MS. KATSANTONIS:</p> <p>10 Q Okay. We were -- before we broke, we</p> <p>11 were talking about this March 28th, 2016 email</p> <p>12 that as set forth in the email as of about</p> <p>13 March 28th, 2016, to the best of -- based on the</p> <p>14 information you know, Nexus had not provided any</p> <p>15 collateral to RLI, correct?</p> <p>16 MS. PETERS: Object to the form.</p> <p>17 <b>A I don't -- for the reasons I just</b></p> <p>18 <b>explained in my prior answers, I will say that</b></p> <p>19 <b>based on this email, it looks like we were trying</b></p> <p>20 <b>to figure out when that first installment was</b></p> <p>21 <b>going to be paid. I don't know whether we paid</b></p> <p>22 <b>anything before that.</b></p>

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47 (185 to 188)

<p>185</p> <p>1 I do know that it's clear that Dave was</p> <p>2 saying they didn't receive it. I just want to be</p> <p>3 clear, I'm not prepared to tell you that we didn't</p> <p>4 pay it before that because I believed that we did.</p> <p>5 Q Well, not -- you believe you paid at</p> <p>6 some point but you don't know whether it was</p> <p>7 before that?</p> <p>8 A I don't know. But because I don't</p> <p>9 know -- because if I knew it was before that, then</p> <p>10 I could say. But since I know when it was I can't</p> <p>11 say. I don't know when it was.</p> <p>12 Q Okay. Well, I'm going to --</p> <p>13 MS. KATSANTONIS: Let's mark this.</p> <p>14 (Donovan Exhibit 10 marked for</p> <p>15 identification and attached to the transcript.)</p> <p>16 Q So this is an email dated June 9th,</p> <p>17 2016. Is it accurate to say prior to June 9th,</p> <p>18 2016, Nexus, Libre, or Homes had not provided any</p> <p>19 collateral to RLI?</p> <p>20 MS. PETERS: Object to form.</p> <p>21 A I don't believe that that's true. I</p> <p>22 can't say that that's true because, as I told you</p>	<p>187</p> <p>1 what I believe happened. I can't -- I can't</p> <p>2 produce a document to show you and that's true.</p> <p>3 But I -- I do believe that we made an initial</p> <p>4 payment when we began the program and that's what</p> <p>5 I based that on and that's what I thought we did.</p> <p>6 And if we didn't, it was an error and I thought we</p> <p>7 did.</p> <p>8 Q You provided -- you sitting here today</p> <p>9 don't know of any evidence that you have provided</p> <p>10 a 50,000 payment to RLI, correct?</p> <p>11 A Correct.</p> <p>12 MS. PETERS: Object to form.</p> <p>13 Q And in fact, when you kept referencing</p> <p>14 a reduced collateral amount, that's -- the email</p> <p>15 you're referencing is this June 9th, 2016 email;</p> <p>16 is that correct?</p> <p>17 A I think there was another one. I seem</p> <p>18 to recollect another one. This is certainly one</p> <p>19 of them that mentions the contingency.</p> <p>20 Q Okay. What basis do you have to recall</p> <p>21 another one?</p> <p>22 A Just a general recollection.</p>
<p>186</p> <p>1 before, I think we did make a payment. I'm not</p> <p>2 sure that we didn't. And I don't, you know -- I</p> <p>3 had assumed that we -- I thought we made a \$50,000</p> <p>4 payment.</p> <p>5 This email from Dave Sandoz sets out a</p> <p>6 future expectation that we pay 50,000 by</p> <p>7 June 15th, 50,000 by July 15th, and then that he</p> <p>8 uses the year end contingency to refund the</p> <p>9 remainder of the collateral account. I do see</p> <p>10 that and that's what the email says.</p> <p>11 Q That's the email you've been</p> <p>12 referencing, right?</p> <p>13 A It doesn't -- it doesn't change the</p> <p>14 fact that I don't know when that payment was made</p> <p>15 and I can't tell that we didn't make the payment</p> <p>16 before then. I believe we did make a \$50,000</p> <p>17 payment. I thought it was at the inception or at</p> <p>18 the beginning of the relationship.</p> <p>19 Q Based on what?</p> <p>20 A Based on my recollection. So I'm just</p> <p>21 not prepared to tell you that we didn't because I</p> <p>22 don't know that and I think it's consistent with</p>	<p>188</p> <p>1 Q How do you know it's different than</p> <p>2 this one?</p> <p>3 A I don't. That's why I said I think</p> <p>4 there's a second one.</p> <p>5 Q Right. Can you give me the best</p> <p>6 recollection you have with regard to another</p> <p>7 email?</p> <p>8 A Can I give you the best recollection I</p> <p>9 have?</p> <p>10 Q Right.</p> <p>11 A What do you mean?</p> <p>12 Q Well, you said you believed there could</p> <p>13 have been another email. I'm trying to understand</p> <p>14 why.</p> <p>15 A I think -- I believe I remember another</p> <p>16 email. I think it was one that was only to me.</p> <p>17 This addresses me and Rick. But I don't -- I</p> <p>18 don't independently know. I can't show it to you.</p> <p>19 I believe that there was --</p> <p>20 Q Okay.</p> <p>21 A -- a subsequent or a prior</p> <p>22 communication.</p>

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48 (189 to 192)

<p>189</p> <p>1 Q And can you give me all the details of</p> <p>2 the other email that you recall?</p> <p>3 A Just that the contingency would be used</p> <p>4 to find the collateral account and that it would</p> <p>5 be refunded at the end of the year. Which is in</p> <p>6 here. So, again, I'm not telling you I'm sure</p> <p>7 there's a second one, I'm telling you I think that</p> <p>8 there is and I'm trying to be -- I want to be</p> <p>9 completely transparent.</p> <p>10 Q Okay.</p> <p>11 A And testify accurately.</p> <p>12 Q And with regard to this email, there</p> <p>13 was -- there's no other signed agreement between</p> <p>14 RLI, Nexus, Libre, Homes, or you personally</p> <p>15 regarding any revised collateral amount; is that</p> <p>16 correct?</p> <p>17 MS. PETERS: Object to form.</p> <p>18 A We never signed another collateral</p> <p>19 agreement.</p> <p>20 Q Okay. And isn't it true that in fact</p> <p>21 there was another demand by RLI to you asking for</p> <p>22 a million 250,000 in collateral?</p>	<p>191</p> <p>1 Q Okay. And --</p> <p>2 MS. KATSANTONIS: Mark that.</p> <p>3 MS. PETERS: 11?</p> <p>4 (Donovan Exhibit 11 marked for</p> <p>5 identification and attached to the transcript.)</p> <p>6 Q So I've handed you as Deposition</p> <p>7 Exhibit 11, I believe, an email from Dave Sandoz</p> <p>8 to you, copying Mr. Chilson. I'll note that these</p> <p>9 are from your records as well, and I'll note that</p> <p>10 it says from Dave Sandoz on behalf of Dave Sandoz.</p> <p>11 So perhaps there's something with your computer</p> <p>12 system that does that.</p> <p>13 A Perhaps on the reprinting. I've never</p> <p>14 seen it. So it doesn't appear when I look at the</p> <p>15 computer but your point's well taken, it is on</p> <p>16 here, so that's true.</p> <p>17 Q So this email of December 7, 2016, is</p> <p>18 summarizing a conference call that you had several</p> <p>19 weeks prior to with Mr. Sandoz and Mr. Chilson.</p> <p>20 Do you recall that?</p> <p>21 A No, but it's a large block of text.</p> <p>22 Let me read it real quick and then I'll answer</p>
<p>190</p> <p>1 A I don't know. I don't recollect that.</p> <p>2 That doesn't mean it isn't true.</p> <p>3 Q Right.</p> <p>4 A RLI made several demands for collateral</p> <p>5 since the cessation of the program but I don't</p> <p>6 remember that specifically.</p> <p>7 Q Do you recall after June 9th of 2016</p> <p>8 RLI started receiving bond breach notices?</p> <p>9 A I don't recall. But that would make</p> <p>10 sense.</p> <p>11 Q Right.</p> <p>12 A Sometimes the immigration bonds will</p> <p>13 breach.</p> <p>14 Q And do you recall that in the --</p> <p>15 starting from the summer 2016 through the end of</p> <p>16 the year, RLI had received several breach notices</p> <p>17 on bond claims and they reached out to you to</p> <p>18 discuss those?</p> <p>19 A I don't recollect that. But that</p> <p>20 doesn't surprise me that there would be breaches</p> <p>21 on immigration bonds because sometimes they</p> <p>22 breach.</p>	<p>192</p> <p>1 you.</p> <p>2 Q Sure.</p> <p>3 So I've handed you this summary of a</p> <p>4 conference call a few weeks ago. Do you recall</p> <p>5 conducting a conference call with Mr. Sandoz and</p> <p>6 Mr. Chilson?</p> <p>7 A I don't recall the call, but I do</p> <p>8 recall this email now that I've had an opportunity</p> <p>9 to read it.</p> <p>10 Q Okay. So you recall that by</p> <p>11 December 7th, 2016, Nexus and RLI had discussed</p> <p>12 that Nexus would be transitioning its work to a</p> <p>13 different surety, its bonds to a different surety?</p> <p>14 A That's correct.</p> <p>15 Q Okay. And so you understood that as of</p> <p>16 December 7th, 2016, that RLI intended to stop</p> <p>17 issuing immigration bonds to Nexus?</p> <p>18 A That's correct.</p> <p>19 Q Okay. And --</p> <p>20 A Well, that it had a request for</p> <p>21 additional collateral or a willingness for an</p> <p>22 amount of time for us to find a new surety. That</p>



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49 (193 to 196)

<p>193</p> <p>1 was what I specifically recollect from this email.</p> <p>2 Q Well, the email says the collateral's</p> <p>3 not tied to -- looking at the beginning, it</p> <p>4 says -- it's wondering whether Evergreen National</p> <p>5 has reached out to you?</p> <p>6 A But it also says, "We know that it</p> <p>7 takes some time to replace the program and we</p> <p>8 assume that's the more preferable route so the</p> <p>9 goal we have set is to have the program moved to a</p> <p>10 better fit for you by 2/28/17 and if the program</p> <p>11 is replaced by that date it is not necessary to</p> <p>12 provide the collateral."</p> <p>13 Q Right.</p> <p>14 A That's what I was referring to.</p> <p>15 Q Right. They were -- so RLI was making</p> <p>16 a demand for a million 250 on Nexus to provide</p> <p>17 collateral to continue issuing bonds through</p> <p>18 February 28th, 2017, correct?</p> <p>19 A No. I've never read a demand letter</p> <p>20 that starts with you don't have to pay this if</p> <p>21 you're -- like, my understanding was that we were</p> <p>22 removing the business. This letter says that we</p>	<p>195</p> <p>1 MS. PETERS: Object to form. Misstates</p> <p>2 the document.</p> <p>3 A I think the document -- well, I mean</p> <p>4 it's interesting because I remember this email and</p> <p>5 the way that I read this email and the way that I</p> <p>6 remember the communication surrounding this</p> <p>7 email -- and I don't remember a conference call</p> <p>8 with Mr. Chilson, but I assume he was on it</p> <p>9 because it says that. So I don't remember that</p> <p>10 call. But my understanding was that RLI was</p> <p>11 saying if we continue in this business beyond</p> <p>12 2/28/17, we're going to need a million \$250,000</p> <p>13 collateral. If you move the business by then</p> <p>14 we're not going to need it. That's what it says.</p> <p>15 And so that's exactly what I read.</p> <p>16 That's exactly what I understood. And that</p> <p>17 further solidifies my understanding of quite</p> <p>18 frankly the contract and why I'm confused why</p> <p>19 we're here. Because, again, RLI we stand, we</p> <p>20 indemnify RLI, right? So that means that if RLI</p> <p>21 has to pay something, we pay them or we exonerate</p> <p>22 RLI which means we pay it before RLI has to pay.</p>
<p>194</p> <p>1 didn't have to pay the collateral if we removed it</p> <p>2 by 2/28/17. So I didn't take it as a demand to</p> <p>3 pay collateral.</p> <p>4 Q Okay. So you didn't take this letter</p> <p>5 that says, "RLI's current exposure is" -- I'm</p> <p>6 sorry, let me go back two lines. "We are going to</p> <p>7 need collateral amounting to 5 percent of the</p> <p>8 total exposure RLI has outstanding at any point in</p> <p>9 time."</p> <p>10 MS. PETERS: Object to form.</p> <p>11 A I do see that but I don't think you can</p> <p>12 read that without reading the line that follows</p> <p>13 that says that if you do replace the program by</p> <p>14 2/28/17, it is -- and it says, I quote, "Is not</p> <p>15 necessary to provide the collateral."</p> <p>16 Q Well, there --</p> <p>17 A I mean, what kind of demand says you</p> <p>18 don't have to do something?</p> <p>19 Q Okay. Well, they were talking about a</p> <p>20 continuing -- they were going to review the</p> <p>21 collateral periodically. Do you see that about</p> <p>22 halfway up?</p>	<p>196</p> <p>1 Now, as long as we do that -- in this email saying</p> <p>2 you need 1.25 million if you continue the program,</p> <p>3 if we didn't continue the program they didn't want</p> <p>4 any more.</p> <p>5 Q Well, you haven't -- you didn't always</p> <p>6 exonerate or indemnify RLI, did you, throughout</p> <p>7 the program?</p> <p>8 A I think we have either exonerated or</p> <p>9 indemnified RLI, yes.</p> <p>10 Q Right.</p> <p>11 A I do believe we have done that.</p> <p>12 Q But you understood that RLI had to go</p> <p>13 to court to obtain preliminary injunctions in</p> <p>14 order to get Nexus to start making exoneration</p> <p>15 payments?</p> <p>16 MS. PETERS: Object to form.</p> <p>17 A Well, no, Vivian, I don't think that's</p> <p>18 true or fair because I sat in this conference room</p> <p>19 next door and told you that I would give you all</p> <p>20 that information you were looking for if your</p> <p>21 client would sign a confidentiality agreement and</p> <p>22 your client would not sign a confidentiality</p>

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50 (197 to 200)

197

1 agreement.

2 You got that information after the

3 court where you filed a lawsuit, entered a

4 protective order that gave our clients that

5 protection. I care about our clients and their

6 confidentiality more than I can tell you. More

7 than I can say in spoken words. Very nearly I

8 almost went to jail to protect that information

9 and I will take this opportunity to say please,

10 please, that's incredibly sensitive information, I

11 trust that you'll follow the protective order and

12 that you'll protect those people. But --

13 Q Isn't it true that RLI did provide you

14 with a confidentiality agreement to execute?

15 MS. PETERS: Object to form.

16 A I do not believe that the

17 confidentiality agreement that RLI provided was in

18 any way sufficient to protect the consumers

19 because as I remember the information that was

20 protected was trade secret information, which

21 would be normally what a company would care about

22 I understand. But we were much more concerned

198

1 about the client confidentiality. And you may

2 remember we had many conversations about this.

3 Q When you signed the indemnity

4 agreement, it provides for RLI to have access to

5 Nexus' books and records, correct?

6 A Correct.

7 Q And in the indemnity agreement it

8 doesn't provide any conditions to providing that

9 access, correct?

10 MS. PETERS: Object to form.

11 A Perhaps not. But you have to

12 understand my perspective. We do business with

13 RLI for a year and they never want to see a book

14 or a record. We stop doing business with RLI and

15 they want to see books and records but they don't

16 want to sign a confidentiality agreement to --

17 Q Wasn't RLI --

18 A -- guarantee the protection of our

19 clients.

20 MS. PETERS: I'm going to object to

21 this line of questions because as counsel well

22 knows, the primary participant data in Libre

199

1 records.

2 MS. KATSANTONIS: Not relevant.

3 MS. PETERS: It absolutely is relevant.

4 You had to add Libre to have access to any Capsule

5 records in this case, Ms. Katsantonis.

6 MS. KATSANTONIS: That's completely

7 false, Ms. Donne Peters, but you're not

8 testifying.

9 A But it is true that the indemnity

10 agreement was with Nexus Services and I believe

11 that was addressed with Judge Urbanski and that's

12 why you filed the amendment -- you filed an

13 amended complaint to bring Libre into it.

14 Q That's not --

15 A I think at the time we were having the

16 conversations, we were having the conversations

17 prelitigation and I told you that I would give you

18 all the records if your client would sign a

19 confidentiality agreement to protect the consumers

20 and they wouldn't.

21 Q Let me ask you -- no, that's not true.

22 MS. PETERS: Object to form.

200

1 Q RLI provided with you a confidentiality

2 agreement, right?

3 A The confidentiality agreement -- with

4 all due respect, Ms. Katsantonis, the

5 confidentiality agreement that you provided was

6 for business trade secret information. I have

7 clients that have exposed to us in the interest of

8 trying to get out of jail and be successful things

9 that could harm them. Could even kill them if

10 it's exposed. And I take very, very seriously

11 protecting that information. One of the --

12 Q You've since provided those records.

13 MS. PETERS: Object to form. Please

14 let him finish his --

15 A One of the things that's so frustrating

16 to me is that even in the inception of this

17 litigation you guys filed, you know, documents

18 from asylum seekers with identifying information

19 on it. I think that shows that my effort to try

20 to get you guys to agree to a confidentiality

21 agreement was wise and appropriate.

22 Q And have you, to date, provided RLI

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51 (201 to 204)

201  
1 with all of the Capsule files that are related to  
2 the RLI bonded principals?  
3 **A We have made a production --**  
4 **Q But not all of the documents?**  
5 **A You are going to let me finish --**  
6 **Q Sorry.**  
7 **A -- Vivian.**  
8 **Q Well, you were saying we've made a**  
9 **production.**  
10 **A No, but you -- I'm still -- but I'm**  
11 **still --**  
12 **Q Okay.**  
13 **A -- finishing my sentence.**  
14 **Q Sorry.**  
15 **A Maybe you'll like what I say, maybe**  
16 **not. But you'll at least understand --**  
17 **Q Okay.**  
18 **A -- the full aspect of what I'm saying.**  
19 **What I'm saying is that we made a production of**  
20 **the Capsule records that we could produce. As**  
21 **I -- I really want you to understand, this is**  
22 **perhaps the first time I'm saying it to you and**

202  
1 **not counsel, you can come, you can pull up and**  
2 **print out what you want. But you have to**  
3 **understand something, there's no way -- the**  
4 **process of screenshotting, screen by screen by**  
5 **screen takes months.**  
6 **Q No.**  
7 **A What we did is we exported note data**  
8 **which is what you wanted, the client summary,**  
9 **which is what I thought you wanted.**  
10 **Q Well, you can export --**  
11 **MS. PETERS: Object to form.**  
12 **Q You can also export --**  
13 **MS. PETERS: Mr. Donovan, have you**  
14 **finished?**  
15 **A I'm done.**  
16 **Q You can also provide us on a thumb**  
17 **drive all of the files in the Capsule database for**  
18 **principal, right?**  
19 **A No.**  
20 **Q And why not?**  
21 **A Because I would have to screenshot**  
22 **them. It would take months.**

203  
1 **Q Can you provide us access by giving us**  
2 **log-in information?**  
3 **A No.**  
4 **Q Why not?**  
5 **A With all due respect, I -- based on**  
6 **filing and open court records information about**  
7 **asylum seekers that are fleeing certain death and**  
8 **you filed their confidential information in a**  
9 **public filing. So I'm sorry, but I have**  
10 **significant concerns about our clients and their**  
11 **safety.**  
12 **MS. PETERS: And I'm going to object to**  
13 **the question insofar as the court has specifically**  
14 **said you're not entitled to any other program**  
15 **participant Capsule data other than the RLI**  
16 **program.**  
17 **MS. KATSANTONIS: We're asking about**  
18 **RLI program participants at this point.**  
19 **MS. PETERS: You asked about log in.**  
20 **A But the problem is that a log in, I**  
21 **couldn't segregate it. You would have access to**  
22 **all --**

204  
1 **Q We could give you -- we could give**  
2 **assurances that we're just looking at RLI.**  
3 **A You could come to our office and print**  
4 **it out and then we would know because we're there.**  
5 **Why not do that? That would be --**  
6 **Q Have you ever given another surety or**  
7 **agent access to the Capsule files via remote log**  
8 **in?**  
9 **A Not unrestricted.**  
10 **Q And what does that mean?**  
11 **A I have never given an individual access**  
12 **where it's unrestricted. I have given individuals**  
13 **access to go in at a time certain when I knew that**  
14 **they were going in when I can review what they're**  
15 **doing and when they come out. I've never given an**  
16 **individual access for that.**  
17 **Q Okay. So you could do the same to RLI,**  
18 **right, you could give us access so that you could**  
19 **see when we get in, what we look at?**  
20 **MS. PETERS: To the extent --**  
21 **A Well, I would have to send someone --**  
22 **I'd have to either send someone or we'd have to do**

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52 (205 to 208)

205

1 a remote desktop sharing because the only way for  
2 me to see is --  
3 Q Right. What other --  
4 A -- for you to do it in front of me.  
5 Q -- individuals or sureties have you  
6 given remote Capsule access to?  
7 A Marco.  
8 Q Anybody else?  
9 A I believe Dave Sandoz at one point.  
10 Q Okay. Anyone else?  
11 A No. Not that I -- not that I can  
12 recollect.  
13 Q Anybody at AIA Surety?  
14 A No.  
15 Q No. And anybody at Evergreen surety.  
16 A No.  
17 Q Okay.  
18 A Well, let me be clear. If Dave Sandoz  
19 had it, it might have been for an Evergreen surety  
20 bond. So let me be clear. I want to be clear. I  
21 don't know which bond or which principal that was.  
22 Q And Nexus previously -- Nexus

206

1 previously produced Capsule documents to RLI in  
2 this litigation that included contract documents,  
3 Libre sales receipt printouts, and information  
4 like that for each RLI bond principal, right?  
5 A That is correct. I believe those were  
6 from a regulatory agency production.  
7 Q Well, you produced another hundred  
8 files, right, that in those -- that we randomly  
9 selected, that RLI randomly selected, right?  
10 A I believe that's true.  
11 Q And there's a hundred -- of those  
12 hundred files you included in the production from  
13 the Capsule files the contract documents, the  
14 sales, Libre sales form, and the risk assessment  
15 form, right? Those were included in the Capsule  
16 file, correct?  
17 MS. PETERS: I need to object to the  
18 form of the question. The documents that you are  
19 referring to and we have advised you were produced  
20 redacted. That redaction process cost over  
21 \$200,000 to perform.  
22 MS. KATSANTONIS: Ms. Donne Peters,

207

1 again, we don't want -- we're not asking for your  
2 testimony. I'm asking Mr. Donovan about what the  
3 documents contained. I didn't ask you about what  
4 you produced and how much you --  
5 MS. PETERS: It is absolutely --  
6 MS. KATSANTONIS: -- you are saying it  
7 cost you.  
8 MS. PETERS: -- relevant because the  
9 court's order in this case said we could produce  
10 those documents in the same form as were  
11 previously produced --  
12 MS. KATSANTONIS: You don't have to.  
13 MS. PETERS: -- to the regulatory --  
14 MS. KATSANTONIS: You don't have to.  
15 MS. PETERS: -- entity.  
16 MS. KATSANTONIS: You don't have to,  
17 Ms. Donne Peters. There's no requirement that you  
18 do it in a certain way. That's your choice.  
19 MS. PETERS: Over \$200,000 spent to  
20 redact that information, Ms. Katsantonis.  
21 Q Pursuant to the court record, do you  
22 understand -- does RLI under -- I mean, does Nexus

208

1 understand it produced the full Capsule files the  
2 same as were produced in the other hundred files?  
3 A Are you asking me?  
4 MS. PETERS: Redacted.  
5 MS. KATSANTONIS: That's your decision  
6 to redact. We have a protective order in place.  
7 So we'll move on.  
8 A Ms. Katsantonis, I've not reviewed that  
9 submission. Meaning I haven't read it. So I  
10 can't tell you what's in it exactly.  
11 Q Other than the 181 Capsule files that  
12 have been produced so far, is it accurate to say  
13 Nexus has not produced the full Capsule files for  
14 all RLI bond principals?  
15 MS. PETERS: Object to form.  
16 A I don't -- again, what we haven't done  
17 is print out the attachments and the screenshots  
18 and that's because we didn't have time to do it.  
19 We received the -- as I understood it, we received  
20 the order of full Capsule production a week before  
21 a hearing that said we had to do it right away.  
22 There was no way to get it done. It takes -- it



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53 (209 to 212)

<p>209</p> <p>1 takes five to ten minutes, 15 minutes to print 2 out -- well, I want to make sure. 3 Q I'm listening. 4 A No, I want to make sure. Because it's 5 important. I'm not trying to be disrespectful, 6 I'm just going to pause because I want to make 7 sure you hear me. 8 Q I'm listening. 9 A It takes 15 minutes to print out one 10 client. There's no way. If we had started with a 11 team of 10 people when we got Judge Urbanski's 12 order ECF up until the date it was due, it 13 wouldn't have been possible because of the amount 14 of work involved. 15 We crafted a solution by going to, 16 literally, you know, going to the vendor and 17 saying help us because we want to accommodate you. 18 I did that. And I'll tell you something, Vivian, 19 I didn't want to give you those files at all. And 20 not at all because they hurt our case. In fact, I 21 think they help our case. I didn't want to give 22 you those files because I have made a commitment</p>	<p>211</p> <p>1 principals. 2 A So you just want the LiteSpeed data? 3 Because my understanding if you want screenshotted 4 Capsule, that's still going to take -- 5 Q I'm just -- 6 A -- 15 to 20 minutes per file. 7 Q I want the whole Capsule files but 8 there's a way to do that. 9 A Right. So I've told you what the way 10 is and I've invited you to do it. You understand 11 I've given you a -- when I say we provided a 12 significant production, I need you to understand I 13 have significant concerns about the fact that we 14 made that production. Significant concerns 15 because I think it -- it -- 16 Q When did you invite us to come look at 17 the Capsule files? 18 A I'm still talking. 19 Q Sorry. 20 A You've been to our office. Like, 21 you've been there. 22 Q When have you invited us to be -- to go</p>
<p>210</p> <p>1 to those people that I'm going to protect them as 2 best I could. 3 I feel as if I failed them, to be 4 honest, by giving you what I've given you. And 5 the idea that it isn't enough is shocking. 6 Q Okay. 7 A Because the information that is 8 included in those files and those summaries is 9 extensive. 10 Q Can't you simply go to the Libre -- to 11 the LiteSpeed database and print up the 12 information for each RLI bond principal of what 13 payments they've made? 14 A We would have to pull each of those 15 principals up. 16 Q Right. 17 A So it would take some time. 18 Q But it's not -- 19 A There's no way to export it and just 20 sort it. 21 Q But it's not a very cumbersome thing to 22 go to that database and pull up the RLI bond</p>	<p>212</p> <p>1 into the Capsule files? 2 A I instructed Mr. Shoreman to make that 3 statement in a hearing before Judge Hoppe and I 4 believe he did. I believe he told you that you 5 could come and we'd log you in to Capsule and you 6 could print Capsule files. And if he didn't tell 7 you that, I'm telling you right now. 8 Q Okay. 9 A If you want to come and print Capsule 10 files, I'll put someone there with you and we will 11 print Capsule files all day and all night until 12 you're done. 13 Q But today we can all agree we have not 14 been provided with all of the Capsule files for 15 the RLI bond principals? 16 MS. PETERS: Object to form. 17 A I just -- 18 Q Well, we haven't been provided with the 19 contracts for all the RLI bond principals that are 20 in the Capsule files, right? 21 A But Vivian, during that hearing you 22 were invited to come to campus. You haven't been</p>

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54 (213 to 216)

213

1 to campus, you haven't set up a meeting to come to  
2 a computer where you can print that stuff out. I  
3 would say when we made that offer we did comply.  
4 Q Okay.  
5 A And if you want to come tomorrow, you  
6 can.  
7 Q Okay. That's fine.  
8 And isn't it true that without a surety  
9 issuing a bond for these immigrants, Nexus would  
10 have no program, right?  
11 MS. PETERS: Object to form.  
12 A It would be a different program. I  
13 mean, the program that helps immigrants post bond  
14 and secures that bond so they don't have to pay  
15 critical would certainly be effective by not  
16 having a surety to post bond.  
17 There are a lot of services that Nexus  
18 provides, that Nexus would continue to provide to  
19 clients if we didn't have a surety. So I don't  
20 think it's accurate to say that Nexus would shut  
21 without a surety but it would certainly change our  
22 business model.

214

1 Q Isn't the source of revenue from Libre  
2 by Nexus payments in large part by program  
3 participants for the bond and for GPS monitoring  
4 services?  
5 A Absolutely not.  
6 MS. PETERS: Object to form.  
7 Q That's not the largest --  
8 A We do not charge --  
9 Q -- source to have revenue.  
10 A -- people for a bond. And I think it's  
11 a -- it's a misstatement and one that leads to,  
12 you know, potential -- I think it's in -- I'm sure  
13 you don't mean it to be inflammatory but I believe  
14 it's an inflammatory statement. I don't think  
15 it's accurate.  
16 There are program fees and the majority  
17 of our revenue is derived from program fees. And  
18 those program fees are for a monitoring  
19 supervision program that's far bigger than a bond  
20 or a GPS tracking device.  
21 MS. KATSANTONIS: Mark this document.  
22 THE WITNESS: I'm going to facilitate

215

1 this way. See, I can do that. I feel like I'm  
2 being useful.  
3 (Donovan Exhibit 12 marked for  
4 identification and attached to the transcript.)  
5 Q Okay. Do you recognize this document?  
6 A I do.  
7 Q Okay. Is this a copy of a contract  
8 that is typically entered into with program  
9 participants?  
10 MS. PETERS: Object to form.  
11 A No. This is a copy of a program  
12 because of a contract. But it is not currently  
13 used.  
14 Q Okay. When did it stop being used?  
15 A 2017.  
16 Q Okay. What time -- what date in 2017?  
17 A It varies. Regionally was rolled out  
18 so I can't give you a specific date.  
19 Q So now you have a different contract?  
20 A That is correct.  
21 Q Okay. And are many of the same  
22 components in the contract?

216

1 A It is a very different contract. It is  
2 the same program of course.  
3 Q Okay. What's different about the  
4 contract?  
5 A Shorter. It's fully translated. There  
6 are -- we believe that it's clearer and it's a  
7 better agreement. It's a representative of what  
8 happens when a company grows, gets better.  
9 Q Okay. And looking at this document,  
10 the second page, that's the risk assessment  
11 instrument?  
12 A That's correct.  
13 Q Correct?  
14 And that's a point system to determine  
15 whether the immigrants are at a high risk of  
16 breaching the bond obligations?  
17 A Correct.  
18 Q Okay. And I guess we talked about this  
19 earlier. And there's significant points related  
20 to criminal convictions, correct?  
21 A That is correct.  
22 Q Okay. And then there's an agreement

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55 (217 to 220)

<p>217</p> <p>1 regarding the conditions of monitoring?</p> <p>2 <b>A Correct.</b></p> <p>3 Q And what percentage of immigrants are</p> <p>4 being monitored by GPS?</p> <p>5 MS. PETERS: Object to form.</p> <p>6 Q Of your bond principals?</p> <p>7 MS. PETERS: Object to form.</p> <p>8 <b>A I'm not sure.</b></p> <p>9 Q Do you have an idea as to percentage?</p> <p>10 MS. PETERS: Object to form.</p> <p>11 Q Are we talking more than 50 percent,</p> <p>12 less?</p> <p>13 <b>A We're certainly talking about less than</b></p> <p>14 <b>50 percent, but I don't know.</b></p> <p>15 Q Okay.</p> <p>16 <b>A The amount. I can get it for you and</b></p> <p>17 <b>get it back to you.</b></p> <p>18 Q Okay. How would you get that</p> <p>19 information?</p> <p>20 <b>A I would have to look at our total</b></p> <p>21 <b>universe of clients and I would look at the total</b></p> <p>22 <b>number of people that are currently being</b></p>	<p>219</p> <p>1 <b>company we use.</b></p> <p>2 Q Are they the only company you use?</p> <p>3 MS. PETERS: Object to form.</p> <p>4 <b>A That is correct.</b></p> <p>5 Q And --</p> <p>6 <b>A At this point.</b></p> <p>7 Q -- what does Buddi do to monitor the</p> <p>8 RLI bond principals?</p> <p>9 MS. PETERS: Object to form.</p> <p>10 <b>A Well, Buddi re -- you know, is a</b></p> <p>11 <b>provider of a device that provides GPS tracking.</b></p> <p>12 Q Right. And who's actually doing the</p> <p>13 monitoring of the GPS tracking?</p> <p>14 <b>A We have a monitoring center. So when</b></p> <p>15 <b>it comes to like battery alerts and communication</b></p> <p>16 <b>alerts, our individual call center takes care of</b></p> <p>17 <b>notifying clients and addressing issues like that.</b></p> <p>18 Q How is there a communication alert?</p> <p>19 <b>A A communication alert would occur</b></p> <p>20 <b>perhaps in a building like this where a person</b></p> <p>21 <b>goes to work, they work in a building that's old,</b></p> <p>22 <b>it has concrete walls, like your cell phone</b></p>
<p>218</p> <p>1 <b>monitored by GPS and I would make a simply</b></p> <p>2 <b>mathematical calculation. That's probably the</b></p> <p>3 <b>easiest way.</b></p> <p>4 Q How do you know who is currently being</p> <p>5 monitored on GPS?</p> <p>6 <b>A I would have to look at the GPS system</b></p> <p>7 <b>and see who is currently signed up for GPS.</b></p> <p>8 Q What is the system?</p> <p>9 <b>A It's a system I think it's called</b></p> <p>10 <b>Eagle. It's not a system that I use every day.</b></p> <p>11 Q Okay. But you have access to Eagle</p> <p>12 daily, right?</p> <p>13 <b>A Well, I'm sure I have access to it. I</b></p> <p>14 <b>would have to call IT and say, hey do I have a log</b></p> <p>15 <b>in to this and get it. But I don't know it off</b></p> <p>16 <b>the top of my head, but I'm sure as president of</b></p> <p>17 <b>the company if I don't have access to it I could</b></p> <p>18 <b>get it.</b></p> <p>19 Q For the RLI bond principals, is Buddi</p> <p>20 the monitoring company?</p> <p>21 MS. PETERS: Object to form.</p> <p>22 <b>A At this point, Buddi is the monitoring</b></p>	<p>220</p> <p>1 <b>doesn't work in some buildings, right? Same thing</b></p> <p>2 <b>with the GPS. It's basically a cell phone</b></p> <p>3 <b>strapped to your ankle, right?</b></p> <p>4 <b>So if it's not getting a signal, it's</b></p> <p>5 <b>going to give us a communication alert, kind of</b></p> <p>6 <b>like you'd see on your cell phone if it says no</b></p> <p>7 <b>signal or whatever. So when it's not connecting,</b></p> <p>8 <b>it basically sends a signal to the system and the</b></p> <p>9 <b>system will alert and it will say hey, this person</b></p> <p>10 <b>has no communication.</b></p> <p>11 <b>Now, because that's generally being</b></p> <p>12 <b>inside a building, you don't really get alerted.</b></p> <p>13 <b>You know, that's an alert but it's one that you</b></p> <p>14 <b>sort of understand because it's going to happen</b></p> <p>15 <b>and oftentimes reoccurs.</b></p> <p>16 Q Okay. And with regard to actually</p> <p>17 knowing the locational information of the</p> <p>18 immigrant, do you have that information -- you</p> <p>19 know, is there some sort of electronic -- I get</p> <p>20 that you're getting signals the battery is low,</p> <p>21 okay.</p> <p>22 <b>A Uh-huh.</b></p>

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56 (221 to 224)

<p>221</p> <p>1 Q But do you, Nexus, are you keeping 2 track of where that individual is specifically?</p> <p>3 A No.</p> <p>4 MS. PETERS: Object to form.</p> <p>5 Q Okay. Is Buddi keeping track of where 6 that individual is specifically?</p> <p>7 A I should say yes in the sense that the 8 information is available, right. So if a person 9 is on a Buddi GPS leg or wrist device, I can see 10 where they are. But it is not our company's 11 policy to track people all the time and know where 12 they are all the time because that is not what 13 causes people to perform to go to court to do what 14 they're supposed to do.</p> <p>15 You know, they were already in jail, 16 right? But they don't need to be in electronic 17 jail. What they need is a program that helps them 18 understand what the responsibilities are, to 19 understand that court doesn't have to be a scary 20 thing. To be able to get referrals to resources 21 that they need to be able to move forward with 22 their lives. That's what we do.</p>	<p>223</p> <p>1 Vivian, if a person is on bond for three years, 2 which is with the new administration the way 3 things are going, who wants to wear an ankle 4 monitor for three years. And if you wore -- I 5 mean, it would be onerous, right? So the whole 6 point is to get these people to less onerous 7 monitoring systems, if you will. And so what we 8 want to do is to maintain stability.</p> <p>9 Q All right. So if Buddi advised that 10 they were monitoring out of the outstanding nearly 11 2,500 RLI bonds, if Buddi advised they were 12 monitoring or had GPS monitoring on less than a 13 hundred of those RLI bond principals, would that 14 sound about accurate to you?</p> <p>15 A Actually, it surprised me that we have 16 that many. Because the RLI program ended in 2017 17 and it's 2020. So when I realized that we had 18 those people still on the monitoring, I 19 discontinued monitoring for all of them because I 20 do not believe that it is appropriate to have 21 people monitoring that long. So I was actually 22 surprised that we had that many.</p>
<p>222</p> <p>1 Q Okay.</p> <p>2 A The GPS is there to provide information 3 when necessary to be able to determine the 4 stability of the client and hopefully move them 5 off of more onerous monitoring systems.</p> <p>6 Q Is there a different fee structure? In 7 other words, if you wanted to know where an 8 immigrant was every day, you'd have to pay more 9 money to Buddi to do that kind of monitoring?</p> <p>10 A No. See, because the only party that 11 benefits from any GPS monitoring is Nexus, right? 12 I mean, no client, no program participant ever 13 calls Nexus and says where was I Friday because 14 they know where they were Friday. The only party 15 that benefits from the GPS tracking is Nexus, 16 right?</p> <p>17 Nexus, therefore, will oftentimes tell 18 people that they're no longer subject to 19 monitoring. In fact we're very, very proud as a 20 company of getting people off of the monitoring 21 device within eight months, as is our average. We 22 want people off the monitoring devices because,</p>	<p>224</p> <p>1 Q Do you know when you discontinued 2 monitoring the RLI bond principals?</p> <p>3 A It was a couple weeks ago.</p> <p>4 Q Is there a document that records that?</p> <p>5 A I suppose it is. I -- I -- I think 6 I -- I probably had -- no, I think I communicated 7 verbally that we were going to -- I was trying to 8 figure out if I sent an email. I think --</p> <p>9 Q Who would you have communicated to?</p> <p>10 A I told Richard and I told Evan Aijin 11 who is our vice president of operations, that we 12 were going to discontinue monitoring our RLI 13 bonded principals because they had been on the 14 program for three years and the fact that we had 15 any of them still being monitored was a failure of 16 this program, to get them off monitoring quickly.</p> <p>17 Q Aren't you incurring significant 18 breaches still on RLI bonds?</p> <p>19 A I --</p> <p>20 MS. PETERS: Object to form.</p> <p>21 A I think that our breach performance 22 with RLI is the worst. And part of that is that</p>



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57 (225 to 228)

<p style="text-align: right;">225</p> <p>1 we do not have permission to ask for</p> <p>2 reconsiderations. RLI has withheld that from us.</p> <p>3 No other surety has done that --</p> <p>4 Q Well, the re --</p> <p>5 A -- and that has --</p> <p>6 MS. PETERS: Object to form. Please</p> <p>7 let him finish his answer.</p> <p>8 A That has caused a higher rate of bond</p> <p>9 breaches with RLI. But I don't believe --</p> <p>10 Q A reconsideration has nothing --</p> <p>11 A I'm sorry, I'm not --</p> <p>12 Q Sorry.</p> <p>13 A I don't believe that RLI's</p> <p>14 unwillingness to allow us to seek a</p> <p>15 reconsideration should result in a hundred</p> <p>16 immigrants having to wear an ankle monitor for</p> <p>17 three years, right? So I don't -- while I'm</p> <p>18 concerned about the RLI bond breach rate, I'd much</p> <p>19 rather manage that through, you know, proactive</p> <p>20 supervision and assistance of our clients than</p> <p>21 tethering them with an ankle bracelet because RLI</p> <p>22 won't allow us to contest breaches that are</p>	<p style="text-align: right;">227</p> <p>1 believe it was an individual who was breached</p> <p>2 inaccurately. I believe it was a breach that</p> <p>3 occurred in the jail when the person had been</p> <p>4 released. My understanding was that the person</p> <p>5 was still complying, meaning they were still going</p> <p>6 to immigration court. So they, you know, they</p> <p>7 still had their court case, but they had an</p> <p>8 inappropriate -- or an anomaly breach. In those</p> <p>9 instances, it doesn't make any sense to appeal</p> <p>10 that breach to the AAO because the person that's</p> <p>11 ultimately going to make that decision is the bond</p> <p>12 unit supervisor who's going to check the file and</p> <p>13 go, oh, jeez, we screwed up.</p> <p>14 But see, I can't go to the bond unit</p> <p>15 supervisor with a request for reconsideration</p> <p>16 because RLI won't let me. So I have to go and</p> <p>17 appeal these to the AAO, which is why we have a</p> <p>18 higher number of AAO cases that are treated as</p> <p>19 reconsiderations and granted.</p> <p>20 Q Other than that one --</p> <p>21 A But it would be more if we could</p> <p>22 actually go to the bond unit manager and say we</p>
<p style="text-align: right;">226</p> <p>1 inappropriate.</p> <p>2 Q What unwillingness of reconsideration</p> <p>3 are you referring to?</p> <p>4 A Well, as you may remember, we asked for</p> <p>5 a letter allowing us to ask bond unit supervisors</p> <p>6 to reconsider breaches and your client said that</p> <p>7 they would consider them on a case-by-case basis.</p> <p>8 We requested them multiple times. Each time we</p> <p>9 were denied.</p> <p>10 Q Do you have any facts or evidence to</p> <p>11 support that?</p> <p>12 A I know there's an email from Ira</p> <p>13 Sussman denying one that I reviewed a couple weeks</p> <p>14 ago. So I know that email exists and I'll find</p> <p>15 that for you.</p> <p>16 Q What was the basis of the denial?</p> <p>17 A I think it was arbitrary and</p> <p>18 capricious.</p> <p>19 Q What was the basis of the dispute for</p> <p>20 appeal?</p> <p>21 A As I remember, and I need to be careful</p> <p>22 because I want to be accurate, as I remember, I</p>	<p style="text-align: right;">228</p> <p>1 need you to reconsider this and I would say for</p> <p>2 the purposes of that I'd still really appreciate</p> <p>3 your client's cooperation in that because we could</p> <p>4 do a lot better.</p> <p>5 Q First of all, doesn't that request for</p> <p>6 reconsideration happen after a bond has already</p> <p>7 been breached, right?</p> <p>8 A Of course, yes.</p> <p>9 Q Right.</p> <p>10 A Otherwise there's nothing to</p> <p>11 reconsider.</p> <p>12 Q So RLI has -- the fact that there are</p> <p>13 significant bond breaches have nothing to do with</p> <p>14 actions or inactions by RLI, correct?</p> <p>15 MS. PETERS: Object to form.</p> <p>16 A No, I disagree. I think that --</p> <p>17 Q For the initial bond breach.</p> <p>18 A I disagree. I think that there are --</p> <p>19 we're talking two different things. I'm talking</p> <p>20 about paying bond breaches versus breaches that</p> <p>21 set aside or reconsidered. What I'm suggesting is</p> <p>22 that there are a significant number of breaches</p>

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58 (229 to 232)

<p>229</p> <p>1 that we've paid for RLI program participants that</p> <p>2 could have been set aside had RLI granted us the</p> <p>3 authority to do that.</p> <p>4 Q Okay. Isn't your obligation -- isn't</p> <p>5 the obligation under the bond to deliver the alien</p> <p>6 for hearings or upon demand of Department of</p> <p>7 Homeland Security?</p> <p>8 MS. PETERS: Objection to form. Whose</p> <p>9 responsibility?</p> <p>10 A I don't believe it's my responsibility</p> <p>11 to --</p> <p>12 Q Isn't the obligation of the bond. You</p> <p>13 asked RLI to issue bonds, right?</p> <p>14 A Uh-huh.</p> <p>15 Q And you're familiar with what the bonds</p> <p>16 look like, right?</p> <p>17 A I am.</p> <p>18 Q Okay. Let's get a sample bond.</p> <p>19 (Donovan Exhibit 13 marked for</p> <p>20 identification and attached to the transcript.)</p> <p>21 Q So looking at the bond form</p> <p>22 instructions, doesn't it say the bond is posted as</p>	<p>231</p> <p>1 there's a breach, and then there's a final claim</p> <p>2 determination, then that gets paid. And I believe</p> <p>3 that the bond requirements are that the immigrant</p> <p>4 appear or the obligor pay. I believe that's what</p> <p>5 this document says.</p> <p>6 Q Let's look at page 5 of 5, paragraph G.</p> <p>7 A (The witness complies.)</p> <p>8 Q So for delivery bond, the condition</p> <p>9 is --</p> <p>10 A Which one are we looking at?</p> <p>11 Q G.</p> <p>12 A G?</p> <p>13 Q G1.</p> <p>14 A Yep.</p> <p>15 Q Okay. For delivery bond it says, "The</p> <p>16 obligor hereby furnishes such bond with the</p> <p>17 following conditions."</p> <p>18 And looking at 1 in that subheading,</p> <p>19 the --</p> <p>20 MS. PETERS: I'm sorry, I'm not</p> <p>21 following you. Which paragraph?</p> <p>22 MS. KATSANTONIS: G1.</p>
<p>230</p> <p>1 security for performance and fulfillment of the</p> <p>2 bonded alien's obligations to the government,</p> <p>3 right?</p> <p>4 A Yes.</p> <p>5 Q And then looking at the third sentence</p> <p>6 down it says, "The obligor guarantees the</p> <p>7 performance of the conditions of the bond."</p> <p>8 A Right.</p> <p>9 Q Right? And those obligations are to</p> <p>10 appear upon demand, right?</p> <p>11 MS. PETERS: Object to form.</p> <p>12 A Well, yeah, but if you read -- like,</p> <p>13 just the sentence that you read, "The obligor</p> <p>14 guarantees the performance of the conditions of</p> <p>15 the bond," if you read the sentence before that it</p> <p>16 says, "The surety is the obligor; the bonded alien</p> <p>17 is the principal; DHS is the beneficiary of all</p> <p>18 bonds it authorizes." That indicates --</p> <p>19 MR. KOWALCZUK: Slow down, please.</p> <p>20 MS. PETERS: Slow down, please.</p> <p>21 A I'm so sorry. Beneficiary meaning that</p> <p>22 if the person doesn't appear that there's -- and</p>	<p>232</p> <p>1 MS. PETERS: G1 you're in the middle of</p> <p>2 the page?</p> <p>3 MS. KATSANTONIS: Right.</p> <p>4 MS. PETERS: In the middle of a</p> <p>5 sentence?</p> <p>6 MS. KATSANTONIS: Uh-huh.</p> <p>7 Q "The obligor shall cause the alien to</p> <p>8 be produced or to produce himself."</p> <p>9 A Hold on, I'm on G1 on this page. Is</p> <p>10 this not where you are?</p> <p>11 MS. PETERS: She's reading in the</p> <p>12 middle of a sentence --</p> <p>13 Q Right here.</p> <p>14 MS. PETERS: -- in the middle of the</p> <p>15 paragraph.</p> <p>16 A I gotcha. I naturally started at</p> <p>17 beginning of the paragraph.</p> <p>18 Q You can read the whole thing, that's</p> <p>19 fine.</p> <p>20 A Yeah.</p> <p>21 MS. PETERS: Why don't you take a</p> <p>22 moment and read the whole thing.</p>

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59 (233 to 236)

233	235
<p>1 A Okay.</p> <p>2 Q Okay.</p> <p>3 A I've read section G1 in that first</p> <p>4 paragraph 1, 1, and 2. Public charge, voluntarily</p> <p>5 departure and order of supervision. If you're</p> <p>6 going to ask me questions about those, I'm going</p> <p>7 to need to take some time to read this. But I</p> <p>8 didn't want to take --</p> <p>9 Q No, I'm not going to ask you about</p> <p>10 that.</p> <p>11 A I didn't think so.</p> <p>12 Q Right. So did you understand that the</p> <p>13 obligation is to produce the alien to an</p> <p>14 immigration officer, immigration judge as</p> <p>15 specified in the appearance notice?</p> <p>16 MS. PETERS: Object to form. States --</p> <p>17 misstates the document.</p> <p>18 A So the document clearly states that the</p> <p>19 bond is conditioned upon the delivery of the</p> <p>20 alien, Ms. Katsantonis, I would agree. But the</p> <p>21 bond also states that if the individual isn't</p> <p>22 delivered, that the bond becomes due and payable.</p>	<p>1 be the obligor.</p> <p>2 A Right. Yeah, that's certainly correct.</p> <p>3 We are just the indemnitor.</p> <p>4 Q All right. Looking at the language,</p> <p>5 okay, the obligation is to produce the alien,</p> <p>6 right? And then it says if the obligor fails to</p> <p>7 surrender, while the bond remains in effect, the</p> <p>8 full amount of the bond becomes due and payable,</p> <p>9 right?</p> <p>10 MS. PETERS: Object to form.</p> <p>11 Q Isn't that what the language says?</p> <p>12 A I'm sorry, can you repeat that?</p> <p>13 Q It says if -- so the obligation of the</p> <p>14 bond is to deliver the alien to the immigration</p> <p>15 officer, immigration judge?</p> <p>16 A Uh-huh.</p> <p>17 Q Right?</p> <p>18 MS. PETERS: Object to form.</p> <p>19 Q And then -- so that's correct, right,</p> <p>20 that's what the obligation says?</p> <p>21 MS. PETERS: Object to form.</p> <p>22 Q Correct?</p>
234	236
<p>1 Again, the bond and the whole purpose of the</p> <p>2 bond --</p> <p>3 Q Well, it says --</p> <p>4 MS. PETERS: Object.</p> <p>5 Q Sorry, go ahead.</p> <p>6 MS. PETERS: Please let him finish.</p> <p>7 A -- is to compel attendance. And in</p> <p>8 this manner, the way that it does that is it</p> <p>9 creates a financial incentive or a financial</p> <p>10 disincentive as you might say.</p> <p>11 But clearly the bond is either delivery</p> <p>12 or payment. And as is evidenced by the fact that</p> <p>13 we've paid an awful lot, and so, you know, that --</p> <p>14 and that's true because in RLI's case we haven't</p> <p>15 been able to contest bond breaches. And so we've</p> <p>16 had more bond breaches we've had to pay with RLI</p> <p>17 because RLI has refused to give us the information</p> <p>18 to seek reconsideration. So we've had to appeal</p> <p>19 those cases and it's -- it's been crazy.</p> <p>20 MS. PETERS: And Ms. Katsantonis, I'm</p> <p>21 going to object to the line of the testimony to</p> <p>22 the extent it suggests that Libre or Nexus would</p>	<p>1 MS. PETERS: Are you asking him to read</p> <p>2 the contract or are you asking him to give the</p> <p>3 full obligations under the bond?</p> <p>4 MS. KATSANTONIS: I'm asking him</p> <p>5 pursuant to paragraph G, the obligation under the</p> <p>6 bond is to deliver the alien to the immigration</p> <p>7 officer, immigration judge as specified.</p> <p>8 A Sure. That is written there in the</p> <p>9 first sentence there.</p> <p>10 Q Right, and that's what the obligation</p> <p>11 is, correct?</p> <p>12 MS. PETERS: Object to form.</p> <p>13 A That is an obligation of the bond, yes.</p> <p>14 Q Right. And it says if the obligor</p> <p>15 fails to surrender the alien while the bond</p> <p>16 remains in effect, the full amount of the bond</p> <p>17 becomes due and payable?</p> <p>18 A Right. See but the obligor is not me.</p> <p>19 Q Right. But that's not the question.</p> <p>20 You've asked Nexus to execute the bonds, correct?</p> <p>21 MS. PETERS: Object to form.</p> <p>22 A Well, Nexus has asked RLI.</p>

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60 (237 to 240)

<p>237</p> <p>1 Q I'm sorry, Nexus -- I'm sorry, you're 2 right. 3 <b>A It's only twice.</b> 4 Q Nexus has asked RLI to issue these 5 bonds, right? 6 <b>A That's right. That's right.</b> 7 Q And the obligation is to have these 8 immigrants appear pursuant to these notices that 9 are given, correct? 10 MS. PETERS: Object to form. Misstates 11 his prior testimony. You keep saying "the" and he 12 said "an." 13 Q Okay. 14 <b>A I think it's -- I think it's -- or pay,</b> 15 <b>right? I think --</b> 16 Q It doesn't say "or pay" anywhere in 17 this agreement, does it? 18 <b>A Actually I think it does. I think it</b> 19 <b>says right here that it becomes due and payable.</b> 20 <b>That would be the third, fourth --</b> 21 Q It says if you fail to comply with the 22 obligation.</p>	<p>239</p> <p>1 <b>obligation to go round them up. And quite</b> 2 <b>frankly, if you did after paying the breach it</b> 3 <b>would be entirely inappropriate. Entirely</b> 4 <b>inappropriate. And I hope that you won't do that</b> 5 <b>with the information that we provided from the</b> 6 <b>Capsule files.</b> 7 Q Looking at the face of the bond itself. 8 <b>A Uh-huh.</b> 9 Q And looking at paragraph C? 10 MS. PETERS: Object to form. Which 11 face, which page? 12 MS. KATSANTONIS: Page 3 of 6. 13 <b>A Yes.</b> 14 MS. PETERS: 3 of 6 or 3 of 7? 15 MS. KATSANTONIS: 3 of 6. 16 ATTORNEY A: Next page. Oh, sorry. 17 MS. PETERS: Sorry, looking at -- 18 Q Sorry, if you're looking at C when it 19 talks about the amount being paid, doesn't it 20 refer to them as liquidated damages and not as a 21 penalty? 22 MS. PETERS: Object to form.</p>
<p>238</p> <p>1 <b>A Right, either/or. You deliver or you</b> 2 <b>pay. You deliver or you pay.</b> 3 Q It doesn't say that. It says -- 4 <b>A It says that.</b> 5 Q -- your obligation is to deliver and if 6 you fail your obligation while the bond remains in 7 effect, you pay the full amount. 8 MS. PETERS: Object to form. Arguing 9 with the witness. 10 <b>A What do you mean the bond remains in</b> 11 <b>effect?</b> 12 Q It says while the bond remains in 13 effect, doesn't it? 14 <b>A But Ms. Katsantonis, when we pay a</b> 15 <b>breach they don't still expect you to deliver the</b> 16 <b>alien.</b> 17 Q Let me ask you -- well, if you pay a 18 bond breach that doesn't mean the alien still 19 doesn't have an obligation to appear or be taken 20 into custody, right? 21 <b>A The alien's obligation is independent.</b> 22 <b>As a co-obligor you certainly don't have an</b></p>	<p>240</p> <p>1 <b>A Are you talking about C?</b> 2 Q Yes. 3 MS. PETERS: I'm going to object to 4 form to the extent that it calls for a legal 5 conclusion. 6 MS. KATSANTONIS: Fine. 7 <b>A It says that they agree to be bound to</b> 8 <b>the United States in the sum of blank unless the</b> 9 <b>guarantee of the bond is that the alien shall not</b> 10 <b>become a public charge or violate. So you are</b> 11 <b>going to ensure delivery or pay the money.</b> 12 Q Well, it says -- do you think -- so 13 it's your understanding that the United States 14 government is okay with picking one or the other 15 when they release -- when they allow you -- when 16 they allow Nexus Services and RLI, when they allow 17 the release of an immigrant, they do so thinking 18 you don't have to make them come back, you could 19 just pay them 15,000 or \$25,000? 20 MS. PETERS: Object. 21 Q Is that your understanding? 22 MS. PETERS: Object to the form of the</p>



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61 (241 to 244)

<p>241</p> <p>1 question.</p> <p>2 <b>A My understanding, Ms. Katsantonis, of</b></p> <p>3 <b>the bond is what the bond says which is you</b></p> <p>4 <b>deliver or you pay.</b></p> <p>5 Q Where does it say --</p> <p>6 <b>A I will say -- hold on. I've told you.</b></p> <p>7 <b>I actually pointed out the sentence for you. You</b></p> <p>8 <b>just -- you disagree but I showed you where it --</b></p> <p>9 Q Well, it doesn't say the word "or."</p> <p>10 <b>A That being said -- well, it's that --</b></p> <p>11 MS. PETERS: Object to form.</p> <p>12 <b>A -- or that.</b></p> <p>13 MS. PETERS: Please don't interrupt</p> <p>14 while he's --</p> <p>15 Q Go ahead --</p> <p>16 MS. PETERS: -- answering.</p> <p>17 Q -- please.</p> <p>18 <b>A That being said, you asked me do I</b></p> <p>19 <b>think the government. Let me tell you something.</b></p> <p>20 <b>I have been in immigration courts where I've seen</b></p> <p>21 <b>immigration judges nearly dance a jig when five of</b></p> <p>22 <b>six people don't show up and it means they clear</b></p>	<p>243</p> <p>1 an appearance date. There would still be</p> <p>2 presumably a warrant issued by the attorney</p> <p>3 general that could be executed against this</p> <p>4 person. But many of our clients, Ms. Katsantonis,</p> <p>5 are from prior orders of deportation. I've seen</p> <p>6 people come and those prior orders exist but</p> <p>7 they're not being looked for. There's no active,</p> <p>8 like -- and then they get picked up again and then</p> <p>9 they get released.</p> <p>10 Q Is it your testimony that you procure</p> <p>11 bonds with the thought that the sureties will have</p> <p>12 to just pay the bond amounts?</p> <p>13 MS. PETERS: Object to form.</p> <p>14 <b>A Well, Ms. Katsantonis, since I've paid</b></p> <p>15 <b>the bond amounts for RLI, you know that that's not</b></p> <p>16 <b>an accurate statement and I think it's</b></p> <p>17 <b>inflammatory. I don't think that's -- I don't</b></p> <p>18 <b>think that's at all what I'm saying. I think that</b></p> <p>19 <b>what I said was we have an obligation, meaning --</b></p> <p>20 <b>and I want to be clear, the obligor, which is your</b></p> <p>21 <b>client, has an obligation. We have stood in the</b></p> <p>22 <b>shoes of the principal to say we are going to meet</b></p>
<p>242</p> <p>1 the docket faster. I'm telling you that the</p> <p>2 government is just as happy to accept the money</p> <p>3 than it is to accept the body. That's</p> <p>4 unfortunate --</p> <p>5 Q It's your understanding that --</p> <p>6 <b>A -- but that's my experience.</b></p> <p>7 Q It's your understanding that -- I mean</p> <p>8 don't -- doesn't the government require a hundred</p> <p>9 percent posting of collateral for an immigrant to</p> <p>10 be released if it's not with the bond? Don't they</p> <p>11 require the immigrant to post a hundred percent</p> <p>12 collateral?</p> <p>13 <b>A Right.</b></p> <p>14 Q Okay. But that means the immigrant</p> <p>15 still has to appear.</p> <p>16 <b>A Right. But if the immigrant doesn't</b></p> <p>17 <b>appear they take the money.</b></p> <p>18 Q But the -- it doesn't mean that if they</p> <p>19 take the money they're never going to continue to</p> <p>20 pursue the immigrant, right?</p> <p>21 <b>A Well, it would mean that -- there would</b></p> <p>22 <b>no longer be an appearance date. See, so there's</b></p>	<p>244</p> <p>1 that obligation and we meet it by paying it if the</p> <p>2 person isn't delivered.</p> <p>3 By the way, we have no authority</p> <p>4 whatsoever to go arrest an immigrant and take them</p> <p>5 to a hearing. We go to people's homes and say,</p> <p>6 let's go, we're going to take you to this hearing</p> <p>7 and we convince them to come along. That's what</p> <p>8 we do. That's our authority.</p> <p>9 Q Okay.</p> <p>10 <b>A And it's a better way to do it to be</b></p> <p>11 <b>honest with you. While I wish we didn't have to</b></p> <p>12 <b>pay breaches and I wish that no bonds ever</b></p> <p>13 <b>breached, I'm still proud of the work that we do.</b></p> <p>14 <b>I'm proud of what we've been able to accomplish as</b></p> <p>15 <b>a company and I'm proud of every single program</b></p> <p>16 <b>participant that makes it through this ridiculous</b></p> <p>17 <b>onerous process that the government has</b></p> <p>18 <b>established. I'm sorry.</b></p> <p>19 Q So if a bonded principal is escorted,</p> <p>20 as required by notice to deliver, you know, does</p> <p>21 that discharge the obligation of the bond?</p> <p>22 MS. PETERS: Object to the form of the</p>

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62 (245 to 248)

<p>1 question.</p> <p>2 Q If the bond --</p> <p>3 MS. PETERS: Can I ask that it reads --</p> <p>4 MS. KATSANTONIS: Yeah, I'm going to</p> <p>5 say it again.</p> <p>6 Q If the bonded principal is escorted to</p> <p>7 Department of Homeland Security, the immigration</p> <p>8 court, or wherever they're required to be</p> <p>9 produced, as required by the notice to deliver,</p> <p>10 does that discharge the bond?</p> <p>11 MS. PETERS: Object to the form of the</p> <p>12 question.</p> <p>13 A It can. It doesn't necessarily.</p> <p>14 Q Okay. Under what circumstances would</p> <p>15 it not?</p> <p>16 A If the individual's case is not</p> <p>17 finished. Oftentimes a 9340 will be issued for</p> <p>18 purpose of an interview or law enforcement</p> <p>19 purposes, law enforcement wants to talk to</p> <p>20 somebody. There are many number of reasons why a</p> <p>21 notice to deliver can be issued. If the notice to</p> <p>22 deliver is issued based on a final order of</p>	<p>1 Q This is a GPS monitoring disclosure</p> <p>2 statement.</p> <p>3 When you were using this form of</p> <p>4 agreement in -- so you used this form of agreement</p> <p>5 in 2016 and 2017; is that correct?</p> <p>6 A A portion of 2017, yes.</p> <p>7 Q Okay. So during the time RLI bonds</p> <p>8 were being issued, correct?</p> <p>9 A I'm sorry. Would you repeat that?</p> <p>10 Q During the time that RLI bonds were</p> <p>11 being issued?</p> <p>12 A That's correct. I'm going to take a</p> <p>13 biology break so that we can --</p> <p>14 Q Sure.</p> <p>15 A Because I can see that this is going --</p> <p>16 THE VIDEOGRAPHER: We are going off the</p> <p>17 record at 16:58.</p> <p>18 (Recess taken.)</p> <p>19 THE VIDEOGRAPHER: We are back on the</p> <p>20 record another 17:19.</p> <p>21 BY MS. KATSANTONIS:</p> <p>22 Q We don't even care what that says</p>
<p>1 deportation, the person walks in, they're hooked</p> <p>2 up, ICE takes them into custody, they cancel the</p> <p>3 bond. But if they come in and it's an interview</p> <p>4 or a law enforcement thing and the case continues</p> <p>5 then the bond isn't canceled and the conditions</p> <p>6 continue.</p> <p>7 Q All right. Isn't it true that the vast</p> <p>8 majority of notices to deliver that you receive</p> <p>9 are issued in connection with an order of removal?</p> <p>10 A I would say the majority, but I don't</p> <p>11 know that I would say vast majority. We get a lot</p> <p>12 of law enforcement contacts especially in this</p> <p>13 administration.</p> <p>14 Q Okay. Let me ask you, going back to</p> <p>15 the contract document that we had been looking</p> <p>16 at --</p> <p>17 A Yeah.</p> <p>18 Q -- the Libre document. And looking</p> <p>19 at -- I'm going to think of the easiest way to do</p> <p>20 this -- page 13 of 23 on the bottom, it's page</p> <p>21 269.</p> <p>22 A Uh-huh.</p>	<p>1 anymore. It says what it says. Okay.</p> <p>2 A Well, I care what it says because it</p> <p>3 said what I said it said. So that works for me.</p> <p>4 Q All right. We were looking at the</p> <p>5 contract and I was looking at page, it's in the</p> <p>6 right-hand -- it's 269. It's the GPS monitoring</p> <p>7 disclosure statement.</p> <p>8 A Okay. 269. Oh, yeah. I was already</p> <p>9 pulled to it.</p> <p>10 Q So in looking at that agreement, the</p> <p>11 top of the agreement says Libre by Nexus, right?</p> <p>12 A That's correct.</p> <p>13 Q Okay. And when you read the agreement,</p> <p>14 this agreement -- this disclosure statement and</p> <p>15 agreement is entered into between respondent and</p> <p>16 Nexus Services, Inc.; is that correct?</p> <p>17 A That is correct.</p> <p>18 MS. PETERS: Object to form.</p> <p>19 Q So the GPS statement -- and it also</p> <p>20 defines Nexus Services as also Nexus Programs; is</p> <p>21 that correct?</p> <p>22 A It does say Nexus Services, or Nexus</p>

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63 (249 to 252)

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1 **Programs, yes.**  
2 Q Okay. And so to the extent Nexus  
3 Programs is referenced, that would be in reference  
4 to Nexus Services, correct?  
5 **A That is correct, according to this,**  
6 **yes.**  
7 Q And these documents are maintained in  
8 the Capsule database, correct?  
9 **A The contracts will be uploaded into the**  
10 **Capsule database. Let me just be very clear,**  
11 **though. In a prior answer when you said Nexus**  
12 **program refers to Nexus Services that is true in**  
13 **this document. I don't necessarily want to say**  
14 **that that's true in other documents but this**  
15 **document specifically says hereafter collectively**  
16 **Nexus Services or Nexus programs.**  
17 Q Well, and in fact let's say if you look  
18 on, for example, page 262.  
19 **A But see in this document I would**  
20 **concur. So anything in this document that**  
21 **references --**  
22 Q Okay. All right.

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1 **A I just don't want -- you know, if you**  
2 **pull out an email from, like, three years ago --**  
3 Q Okay.  
4 **A -- what about this, Mike, I'm going to**  
5 **be --**  
6 Q Well, because there's other references  
7 to Nexus programs so I just want to be sure --  
8 **A And the reason, Nexus Programs was an**  
9 **entity. So I just want to be very -- and it's**  
10 **talking about this because, you know, they may**  
11 **have documentation that says Nexus Services or**  
12 **Nexus Programs and we're being inclusive, so.**  
13 Q Okay. And so you agree that Nexus  
14 Services is part of these contract agreements,  
15 correct?  
16 MS. PETERS: Object to form.  
17 **A That's correct. And in fact, that is**  
18 **because Nexus Services is the indemnitor, and that**  
19 **was we -- when we -- that is true with RLI. And**  
20 **when we engaged with Dave Sandoz, RLI's preference**  
21 **was to have Nexus Services perform the**  
22 **indemnification. So it would be consistent that**

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1 **the disclosures and the arbitration agreements and**  
2 **those types of things would reference Nexus**  
3 **Services because Nexus Services was indemnifying**  
4 **the body.**  
5 Q Okay. And in reference to, let's --  
6 looking at page 274, there's a contract for  
7 immigration bond securitization and indemnity  
8 agreement, right?  
9 **A Right.**  
10 Q And what is the purpose of this  
11 document?  
12 MS. PETERS: Object to the form  
13 question to the extent that it seeks a legal  
14 opinion.  
15 **A I would say that this document sets out**  
16 **the expectations of what Libre and Nexus Services**  
17 **are going to do and vis-à-vis the contracts for**  
18 **bond securitization and the indemnification of**  
19 **their bond.**  
20 Q Okay. And there's reference in this  
21 agreement to the surety, right?  
22 **A There is.**

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1 Q And it provides rights and -- that the  
2 surety can take in addition to Nexus, correct?  
3 **A What are you --**  
4 MS. PETERS: Object to form.  
5 **A What are you referring to specifically?**  
6 Q Well, for example --  
7 **A I'll read the whole --**  
8 Q -- compromise will say securitize or  
9 and/or surety shall have the right to pay or  
10 compromise any claim, paragraph 3.  
11 MS. PETERS: Can you tell me what --  
12 Q Paragraph 4 --  
13 MS. KATSANTONIS: I'm just reading a  
14 few examples.  
15 Q Paragraph 4 --  
16 MS. PETERS: Can you be specific where  
17 you're reading so that I can track with you where  
18 you are?  
19 MS. KATSANTONIS: I'm on page 274.  
20 MS. PETERS: And paragraph number?  
21 MS. KATSANTONIS: 3 and 4 --  
22 MS. PETERS: Thank you.

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64 (253 to 256)

253

1 MS. KATSANTONIS: -- for example.  
2 MS. PETERS: Okay.  
3 Q Right? There are certain rights that  
4 are extended to the surety as well, correct?  
5 MS. PETERS: Object to form.  
6 **A I don't know that this extends rights**  
7 **to the surety since the surety is not a party.**  
8 **But I think it specifies to the client that the**  
9 **surety has certain rights.**  
10 Q Okay. And then looking at page 278.  
11 **A (The witness complies.)**  
12 Q And I'm looking at the last "I  
13 understand" paragraph.  
14 **A Uh-huh.**  
15 Q Before "in witness whereof."  
16 "I understand that information provided  
17 to Libre by Nexus is likewise provided to the  
18 license surety who posts the bond in the  
19 respondent's case."  
20 Do you see that?  
21 **A Uh-huh.**  
22 Q So did -- did you understand that the

254

1 immigrants who executed these agreements agreed  
2 that the information could be provided to the  
3 surety?  
4 MS. PETERS: Object to form.  
5 **A What information?**  
6 Q The information they provided.  
7 MS. PETERS: Object to form.  
8 Q To Libre by Nexus.  
9 MS. PETERS: Object to form.  
10 **A Well, we provided -- so what this means**  
11 **is that when Libre by Nexus indemnifies a bond, we**  
12 **provide the client's personal identifying**  
13 **information for the posting of the bond to the**  
14 **bail agent. And this specifically states, if you**  
15 **read this, it specifically has the qualifier that**  
16 **they understand that providing false information**  
17 **would constitute a crime.**  
18 The reference is not as a cautionary  
19 tale to the client that their information is going  
20 to be provided to the surety, it is a statement  
21 that they should not provide false information.  
22 The information that's provided to the surety is

255

1 **the application information that's required to be**  
2 **posted to be able to generate the I-352. And the**  
3 **bail agents does that.**  
4 Q That's not explained anywhere in this  
5 document, right?  
6 MS. PETERS: Object to form.  
7 Q It just says, "I understand the  
8 information provided to Libre is likewise provided  
9 to the surety to post the bond."  
10 Correct?  
11 MS. PETERS: Object to form.  
12 **A Yeah, the application information. I**  
13 **think it's made clear to the program participant**  
14 **that we provide application information. It's**  
15 **also made clear to the program participant, that**  
16 **we do not provide Capsule information, that we do**  
17 **not provide contemporaneous notes. After their**  
18 **bond has been posted, they know that those**  
19 **communications are protected, or that we will try**  
20 **to protect them.**  
21 Q Protected as against whom?  
22 **A That we will try to protect them, which**

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1 **we have, both in this litigation and in others.**  
2 Q Well, it doesn't say that vis-à-vis the  
3 surety, right?  
4 MS. PETERS: Object to form.  
5 **A I don't know what you mean. What do**  
6 **you mean?**  
7 Q The document doesn't provide that -- it  
8 provides the exact opposite, that the information  
9 will be shared with a surety.  
10 MS. PETERS: Object to form.  
11 Q Correct?  
12 MS. PETERS: Object to form.  
13 **A I disagree. The information necessary**  
14 **to post the bond will be provided to the surety**  
15 **and they understand that providing false**  
16 **information in the application constitutes fraud.**  
17 **I don't understand how you could read that and not**  
18 **understand that the first sentence responds -- or**  
19 **the second sentence responds to the first. Read**  
20 **the -- read it. I mean, I'm not trying to be**  
21 **argumentative because I understand it.**  
22 Q Well, I'm trying to understand.



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65 (257 to 260)

257

1 A I understand that --  
2 Q Isn't the second part --  
3 A It says I understand the information  
4 provided to Libre by Nexus is likewise provided to  
5 the licensed surety who posts the bond in the  
6 respondent's case. Because to post the bond they  
7 have to have the information. I understand that  
8 providing false information in our Nexus  
9 application constitutes fraud against Nexus and  
10 may result in criminal prosecution.  
11 Q Uh-huh.  
12 A Vivian, I think if you want to disagree  
13 with me about what that means then you can do  
14 that. But I think it's reasonable to assume,  
15 based on the words, the plain language that what  
16 this is talking about is information provided in  
17 the application for the posting of the bond. And  
18 I think it's fair to say that because that's  
19 exactly what it says. And it says --  
20 Q So all of this information --  
21 A -- that if you provide false  
22 information --

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1 Q -- is provided --  
2 A I'm sorry.  
3 Q Isn't all of this information provided  
4 for the posting of the bond?  
5 MS. PETERS: Object to form.  
6 A There is certain information that's  
7 provided to the posting of the bond and that's the  
8 information that we provide to the surety.  
9 Q Isn't this the application that the  
10 immigrant has to provide in order for a bond to be  
11 posted?  
12 MS. PETERS: Object to form.  
13 A It was at the time.  
14 Q Okay. And on page 264 in the lease  
15 agreement, is that an agreement to provide the  
16 electronic monitoring of the individual?  
17 MS. PETERS: Object to form.  
18 A This is a lease agreement template that  
19 we were given by the company that we rented GPS  
20 bracelets from, our first company. It found its  
21 way into this agreement and then lived until 2017.  
22 The revision of the contract specified, you know,

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1 what we always explained to people which is that  
2 the lease agreement specifies their duties to not  
3 damage and to return property that is provided to  
4 them.  
5 Q And the lease agreement provided  
6 that -- that they would have payments of \$420; is  
7 that correct?  
8 A It does say that here, yes.  
9 Q And in the LiteSpeed database there's a  
10 sales line form that can be printed or is -- let  
11 me say that a different way.  
12 There's a sales line form that's  
13 included in the Capsule files for each of the  
14 individual program participants; is that correct?  
15 MS. PETERS: Object to form.  
16 A You said the -- in the LiteSpeed  
17 there's a -- can you say that again? I'm sorry, I  
18 misunderstood you.  
19 Q I probably said it wrong. But thank  
20 you for saying that.  
21 A Or I might have misunderstood.  
22 Q From LiteSpeed --

260

1 A We'll get it, guys.  
2 Q -- you can print a sales line report  
3 for each program participant which itemizes the  
4 payments they have made to Nexus or Libre?  
5 MS. PETERS: Object to form.  
6 A I believe --  
7 Q Is that correct?  
8 A I believe you can run a report that  
9 shows payment history. If that's what you're  
10 asking, right?  
11 Q Yes.  
12 A Okay. Yes.  
13 Q And that -- by immigrant?  
14 A By individual.  
15 Q By individual?  
16 A Yeah.  
17 Q Okay. And for each individual that  
18 information is also included in the Capsule files,  
19 correct?  
20 MS. PETERS: Object to form.  
21 A Per -- not in the same way. In other  
22 words, you're talking about exporting a report in

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66 (261 to 264)

261	263
<p>1 <b>LiteSpeed. If that was ever uploaded into Capsule</b> 2 <b>then it would be there but it wouldn't be there</b> 3 <b>for every Capsule -- it wouldn't be in every</b> 4 <b>Capsule filing. You're looking at me weird so I</b> 5 <b>may have misunderstood you again.</b> 6 Q Well, isn't one of these sales line 7 reports -- 8 A <b>Can I see the report?</b> 9 Q Sure. 10 A <b>I mean, it might be helpful.</b> 11 Q Sure. 12 A <b>Then I'll know what you're talking</b> 13 <b>about.</b> 14 <b>So you're asking me if this is in every</b> 15 <b>Capsule file?</b> 16 Q For each individual participant. 17 A <b>No.</b> 18 Q In the vast majority of them isn't it 19 included? 20 A <b>I think what we're -- so what is</b> 21 <b>included in the vast majority may be a receipt of</b> 22 <b>a transaction. I do not believe that sales lines</b></p>	<p>1 that was received from this bond participant, is 2 that amount forwarded to the surety who issued the 3 bond? 4 MS. PETERS: Object to the form of the 5 question. 6 A <b>So Nexus, as RLI, for example RLI's</b> 7 <b>customer pays RLI the negotiated premium and</b> 8 <b>purchases a bond, right, this -- and that we do at</b> 9 <b>the request of the surety. Specifically RLI</b> 10 <b>requested Nexus Services, not Brian</b> 11 <b>Castillo-Moreno, indemnify Mr. Moreno's bond. So</b> 12 <b>it would be normal for Nexus to pay that premium.</b> 13 Q Okay. But so are you saying that Nexus 14 paid the premium separately from any amount they 15 received from the program participant? 16 MS. PETERS: Object to the form of the 17 question. Misleading. 18 A <b>I would say that in the vast majority</b> 19 <b>of the cases, Ms. Katsantonis, yes, because if you</b> 20 <b>could imagine an immigrant or a -- not an</b> 21 <b>immigrant because they'd be in jail, but like a</b> 22 <b>family member paying at 10:00 on a Tuesday, you</b></p>
262	264
<p>1 <b>are in the vast majority of Capsule files. This</b> 2 <b>would seem like a one-off to me, that it would be</b> 3 <b>odd that this would be in a Capsule file. It</b> 4 <b>would have been placed there for some reason that</b> 5 <b>would have been, you know, outside the norm. I'll</b> 6 <b>give this back.</b> 7 Q No, we'll go ahead and mark it. 8 (Donovan Exhibit 14 marked for 9 identification and attached to the transcript.) 10 THE WITNESS: Here you go. Did you get 11 a copy of this, Mary? 12 MS. PETERS: I did. 13 Q So in the document we're looking at 14 there's a bond payment of \$1,125, correct? 15 A <b>Uh-huh.</b> 16 Q And it says to be forwarded to bond 17 company. 18 MS. PETERS: Object to form as a 19 question. 20 Q Is that correct? 21 A <b>That's what it says.</b> 22 Q Okay. And is the -- is this payment</p>	<p>1 know, Nexus isn't going to receive that money for 2 days. It's going to go to a merchant account, 3 it's going to sit there and it's going to be 4 transferred but we'd be paying that very next day. 5 So, yes, typically it is separated. It's just, 6 you know, we don't typically wait until merchant 7 account -- merchant accounts, what do you say, not 8 consolidate, when they deposit. We don't 9 typically wait until the deposits come in to do 10 that so... 11 Q And isn't it true that the amounts that 12 Nexus or Libre collects for a program participant 13 towards the bond payment are not forwarded to 14 Nexus or Libre, right? Because in addition -- 15 MS. PETERS: Objection to form. 16 MS. KATSANTONIS: I'm sorry, to RLI. 17 MS. PETERS: Object to the form of the 18 question. 19 A <b>I don't understand the question.</b> 20 <b>Sorry. Could you repeat.</b> 21 Q It says here to be forwarded to bond 22 company. But that's not a true statement, right?</p>

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67 (265 to 268)

<p>265</p> <p>1 MS. PETERS: May I interject --</p> <p>2 MS. KATSANTONIS: No.</p> <p>3 MS. PETERS: -- an objection? I'm</p> <p>4 objecting to the form of the question because</p> <p>5 you're --</p> <p>6 MS. KATSANTONIS: No, I don't want to</p> <p>7 hear because.</p> <p>8 MS. PETERS: I'm objecting to the form</p> <p>9 of the question to the extent that it assumes</p> <p>10 facts not in evidence. You're asking him --</p> <p>11 MS. KATSANTONIS: Now you're going to</p> <p>12 testify, Mary Donne, so I'd caution you against</p> <p>13 that.</p> <p>14 MS. PETERS: I'm objecting --</p> <p>15 MS. KATSANTONIS: Mr. Donovan has</p> <p>16 already testified.</p> <p>17 MS. PETERS: He's reading to how a form</p> <p>18 categorizes certain payments. He is not</p> <p>19 testifying --</p> <p>20 MS. KATSANTONIS: You're testifying.</p> <p>21 MS. PETERS: -- regarding the</p> <p>22 difference between an initial payment that is</p>	<p>267</p> <p>1 that amount exactly is always forwarded to the</p> <p>2 bonding company?</p> <p>3 <b>A You handed me --</b></p> <p>4 MS. PETERS: Object to form.</p> <p>5 <b>A You handed me a sheet of paper. I</b></p> <p>6 <b>haven't done any independent analysis of this. If</b></p> <p>7 <b>what you're asking me is do we pay the premium,</b></p> <p>8 <b>yes.</b></p> <p>9 Q No, I'm not asking whether you pay the</p> <p>10 premium on your bond.</p> <p>11 <b>A We pay the premium --</b></p> <p>12 MS. PETERS: Objection.</p> <p>13 <b>A -- and that amount is what's entered</b></p> <p>14 <b>into the payment worksheet for the payment of</b></p> <p>15 <b>premium. It's whatever the premium costs.</b></p> <p>16 Q Isn't it true that program participants</p> <p>17 continue to make other bond payments over the</p> <p>18 course of -- over time?</p> <p>19 MS. PETERS: Object to form.</p> <p>20 <b>A Other bond payments?</b></p> <p>21 Q For -- they're making other payments</p> <p>22 toward their bond amount.</p>
<p>266</p> <p>1 collected and a monthly program fee.</p> <p>2 MS. KATSANTONIS: So right, you're</p> <p>3 trying to testify.</p> <p>4 <b>A Vivian, with all due respect let me say</b></p> <p>5 <b>this, okay: I think that what I said to you</b></p> <p>6 <b>specifically was that we didn't cause immigrants</b></p> <p>7 <b>to sit in jail longer waiting for merchant</b></p> <p>8 <b>accounts to consolidate and transfer before we</b></p> <p>9 <b>paid RLI and got them out of jail. That's what I</b></p> <p>10 <b>said --</b></p> <p>11 Q Right, but --</p> <p>12 <b>A -- and that's my testimony.</b></p> <p>13 Q Right. My question is this: So you</p> <p>14 might have on this sheet \$1,125. Whether it's the</p> <p>15 exact 1,000, that's not the exact amount that you</p> <p>16 necessarily pay the bonding company, correct?</p> <p>17 MS. PETERS: Object to form.</p> <p>18 <b>A Oh, sure it is. That references the</b></p> <p>19 <b>amount of the premium that Nexus paid for the</b></p> <p>20 <b>bond.</b></p> <p>21 Q So this first one that says 1,125, it's</p> <p>22 your testimony that if it says bond payment, that</p>	<p>268</p> <p>1 MS. PETERS: Object to form.</p> <p>2 <b>A I don't -- they make program payments,</b></p> <p>3 <b>Ms. Katsantonis, and those program payments are</b></p> <p>4 <b>for the program not for the bond. And you know</b></p> <p>5 <b>that because RLI is not getting money from us.</b></p> <p>6 <b>And if we were collecting -- RLI would certainly</b></p> <p>7 <b>want its share. RLI knows and knew when we</b></p> <p>8 <b>entered this program what our program was.</b></p> <p>9 <b>Mr. Sandoz knew it extensively and understood it.</b></p> <p>10 <b>And to say now to sort of -- your questions cast</b></p> <p>11 <b>aspersions on whether -- it just is wrong.</b></p> <p>12 Q I'm not casting aspersions, I'm asking</p> <p>13 you a question. I don't even understand what</p> <p>14 you're saying in that regard.</p> <p>15 <b>A Well, you --</b></p> <p>16 Q Let me ask you -- let me ask you a</p> <p>17 different way so maybe --</p> <p>18 <b>A What you asked me was --</b></p> <p>19 Q Maybe you're misunderstanding.</p> <p>20 <b>A -- whether this amount was accurate.</b></p> <p>21 <b>And what I'm telling you is what we -- what our</b></p> <p>22 <b>people are trained to do, what we do every time,</b></p>

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68 (269 to 272)

269  
1 is there's a worksheet and the amount of money  
2 that we have to pay for the premium is calculated  
3 to be that amount.  
4 Now I can't tell you that there's never  
5 been a mistake or something like that, I don't  
6 know.  
7 Q No, let me --  
8 A I don't want to testify to something  
9 like that. But I would say that --  
10 Q Let me re --  
11 A -- this is our policy.  
12 Q Let me ask you this question another  
13 way.  
14 A Uh-huh.  
15 Q So you're a program participant and you  
16 know you have a \$20,000 bond, right?  
17 A Uh-huh.  
18 Q And so how much of that 20,000 bond do  
19 you collect up front as a bond payment?  
20 MS. PETERS: Object to form.  
21 Q What percentage?  
22 MS. PETERS: Object to form.

270  
1 A Whatever percentage is charged by the  
2 surety that we're posting the bond with.  
3 Q What does RLI charge?  
4 MS. PETERS: Object to form.  
5 A I believe it was 12 and then  
6 10 percent. I believe we started at 12 and went  
7 to 10, but it might have been started at 10, I'm  
8 not sure.  
9 Q All right. So let's just go with  
10 10 percent for now. 10 percent. So that's the  
11 initial amount that the program participant paid,  
12 \$2,000?  
13 MS. PETERS: Object --  
14 Q For a 20,000 bond, correct?  
15 MS. PETERS: Object to form.  
16 A It would depend on the amount. Are you  
17 talking about this client?  
18 Q No, I'm just asking --  
19 A All right.  
20 Q -- if there's a \$20,000 bond?  
21 A Because I haven't seen this file.  
22 Q Right.

271  
1 A Right.  
2 MS. PETERS: Object to form.  
3 A If there's a 20,000 bond that amount  
4 would be consistent with whatever the surety was  
5 charging. And if it were RLI and they were  
6 charging 10 percent, then it would be 10 percent.  
7 Q So it would be 2,000. So my question  
8 is: Are there instances where the program  
9 participant, in addition to monthly fees, pays  
10 other amounts towards the bond amount, the \$20,000  
11 bond amount?  
12 MS. PETERS: Object to form.  
13 A Are you talking about -- so there  
14 are -- I'm trying to understand your question.  
15 Are you talking --  
16 Q If I'm a program --  
17 A -- about this document?  
18 Q No. I'm asking you a question with  
19 program participants.  
20 A Uh-huh.  
21 Q So if a program participant has a  
22 \$20,000 bond.

272  
1 A Right.  
2 Q You collect the \$2,000 up front, which  
3 is the premium that you pass on to the bonding  
4 company.  
5 A That we pay to the surety.  
6 Q Right. And I'm saying if the program  
7 participant wants to con -- are there instances  
8 where the program participant makes additional  
9 payments to Libre or Nexus on -- to go towards  
10 that bond amount of \$20,000?  
11 A Okay. You're talking about performance  
12 promised payments, I think. Those are payments  
13 that would have -- if they reached a certain  
14 amount they could have -- they could be removed  
15 from the active monitoring program. I think  
16 that's what you're talking about. I'm sorry, I  
17 just didn't understand and I wanted to make sure I  
18 answered. If that's what you're talking, then  
19 yes. There are performance promise payments under  
20 the contract.  
21 Q And those are -- when they reach what  
22 amount can the person be -- is it when a program



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69 (273 to 276)

273

1 participant reaches a certain amount they then no  
2 longer have to pay monthly fees to Libre?  
3 MS. PETERS: Object to form.  
4 **A That's correct. The idea is to ensure**  
5 **that program participants aren't paying their, you**  
6 **know, double or triple their bond amounts in fees.**  
7 Q And what is the --  
8 MS. PETERS: Object to form of the  
9 question.  
10 Q What is the threshold that the program  
11 participant has to reach before they can be  
12 removed from making further payments?  
13 **A Under the old contract it was**  
14 **14 80 percent.**  
15 Q Okay.  
16 **A However, Nexus reserved the right to do**  
17 **it earlier and often.**  
18 MS. PETERS: I want to make sure that  
19 you're talking apples to apples. You're talking  
20 about performance promise payments versus program  
21 payments.  
22 **A What we're talking about -- I'm talking**

274

1 **about performance promise payments just to be**  
2 **clear.**  
3 Q I understand what you're talking about.  
4 **A Yeah, I just want to make sure we're**  
5 **clear.**  
6 Q All right. So for the exhibit I gave  
7 you the first number that says bond payment, that  
8 would be for RLI, let's say, it would be the 10 or  
9 12 percent, the amount that the surety is charging  
10 for a premium, correct?  
11 **A Correct.**  
12 Q All right. And the performance promise  
13 payment at the bottom, that would be an amount  
14 that the program participant is paying towards  
15 their full bond amount in an effort to eventually  
16 be released from the program?  
17 **A Right.**  
18 Q Okay. Those performance promise  
19 payments, those are maintained by Libre, right?  
20 **A That's correct.**  
21 Q And they're not forwarded to the  
22 bonding company, correct?

275

1 **A That's correct.**  
2 Q Okay. And where does Libre maintain  
3 those funds? Is there a separate account or is it  
4 collected in the operating and distributed in the  
5 normal course?  
6 MS. PETERS: Object to the form.  
7 **A And we specify in our contract that our**  
8 **performance promise payments are not segregated.**  
9 **One of the biggest issues with performance promise**  
10 **payments is that we -- oftentimes those are --**  
11 **when a person fails to appear we've got to use**  
12 **that to pay a breach or if they failed to make**  
13 **promise payments, make program payments sometimes**  
14 **those have to be converted to program payments if**  
15 **they're unable to make payments. So there are**  
16 **different things that can happen. But ultimately**  
17 **if there's a breach, then obviously Nexus stands**  
18 **in the place of the respondent and pays either**  
19 **before or after.**  
20 Q Okay. The collateral service and  
21 general consulting fee, what is that?  
22 **A That is for lack of a better term, the**

276

1 **startup fee. There's a lot of work that goes into**  
2 **collecting information and confirming information,**  
3 **verifying information. And that is the charge for**  
4 **that process.**  
5 Q And then the new program participant  
6 setup fee, what is that?  
7 **A Those are also setup fees for the**  
8 **program. There are fees to, you know, encompasses**  
9 **going to get the person, you know, providing**  
10 **direct service to the individual when they're**  
11 **released, you know, providing whatever we need to**  
12 **do in relation to a hotel. Travel fees are**  
13 **separate for airport, airline, and that kind of**  
14 **thing. But the hotel that they would be in for**  
15 **the first night of their release is covered there**  
16 **as well.**  
17 Q Okay. And that's a one-time fee also?  
18 **A That's correct.**  
19 Q And then the full program payment of  
20 420, what is that?  
21 **A That's the monthly program fee.**  
22 Q And what does that cover?

<p>277</p> <p>1 A It covers all the services that Nexus 2 provides. 3 Q And doesn't it -- doesn't that amount 4 match the GPS amount in the lease agreements? 5 MS. PETERS: Object to form. 6 A Well, I mean it does -- it does -- it 7 does match the amount in the old contract that 8 you're talking about. 9 Q Uh-huh. 10 A It does. Under the new contract there 11 are multiple levels of payments. 12 Q Okay. Earlier we talked about -- 13 sorry, I got them. 14 A You're fine. Hey Vivian, take your 15 time. My clock's ticking. 16 Q Yeah, the more the better. We talked 17 about the indemnity agreement and the collateral 18 agreement, the two agreements that you executed, 19 right? 20 A Yeah. I'm trying to figure out which 21 of these groups that is. Great. Oh, my gosh. 22 I'm losing my mind.</p>	<p>279</p> <p>1 A That's why you said that. I got you. 2 Q Right. We're going back to us. 3 A I'm sorry. 4 Q So we talked earlier about the 5 indemnity agreement and the collateral agreement. 6 Are you aware of any other written contracts or 7 agreements between any one or more of the 8 defendants on one side and RLI on the other? 9 MS. PETERS: Object to form. 10 A I'm not aware of any contracts that we 11 signed other than the ones that we've covered, 12 although I will say that there was a continuing 13 and developing expectation of what was going to 14 happen with the book of business with the 15 collateral, for example, that was clarified in 16 emails by Mr. Sandoz. 17 So, you know, I will say that my 18 understanding of what was required changed as it 19 relates to those emails. But there -- I don't 20 believe we signed any additional agreements. 21 Q Right. And you're not -- you're not 22 aware of any -- I mean, there's no binding</p>
<p>278</p> <p>1 Q We'll find them. But let me ask you 2 are you aware of any other written contracts or 3 agreement between any one or more of the 4 defendants on one side and RLI on the other? 5 MS. PETERS: Object to the form of the 6 question to the extent that he has not otherwise 7 testified about here today. Because he testified 8 to emails with Mr. Sandoz. 9 MS. KATSANTONIS: Mary Donne, 10 seriously, that's -- 11 A Are you saying -- are you saying -- are 12 you saying agreements that we have with RLI -- 13 Q Yes. 14 A -- or program participants? I think 15 when you say -- 16 Q No, now we're -- 17 A I'm sorry, I was -- 18 Q -- leaving the program -- 19 A I said defendants. I got you. 20 Q -- participants behind now. 21 A Okay. We are going to the -- 22 Q We're going back to --</p>	<p>280</p> <p>1 agreement between you and RLI, and by "you" I mean 2 Nexus, Libre, Homes, other than the indemnity 3 agreement and the collateral agreement -- 4 MS. PETERS: Object to the -- 5 Q -- correct? 6 MS. PETERS: -- form of the question to 7 the extent that it calls for a legal conclusion 8 and misstates his prior testimony. 9 A Well, I would disagree. I would say 10 that we -- that assertions that RLI made to us 11 through that time period do matter and the 12 direction on the collateral for example I think 13 does matter from Mr. Sandoz. So I would disagree. 14 But, you know, I -- 15 Q I want to you -- I want you to be very 16 specific. 17 A I'm not a lawyer, so... 18 Q Because it is important, right? 19 A Uh-huh. 20 Q We're here for breach of contracts, 21 right? So I need to know exactly what agreement 22 or contract do you think exists other than those</p>

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71 (281 to 284)

281

1 two?

2 MS. PETERS: Object to form.

3 Q Specifically.

4 MS. PETERS: Object to the form.

5 A I don't think that we're here for

6 breach of contract. I would say that I don't

7 think we breached our contract. I think we've

8 stood and performed under the contract.

9 Q Okay.

10 A But that being said, I do understand

11 the seriousness of it and I appreciate that.

12 That's why I'm here when I'm ill because I want to

13 be here because I respect the process.

14 That being said, I'm not prepared to

15 say that Mr. Sandoz's direction to us on

16 collateral wasn't a binding or be resetting the

17 expectation. I think it was both. And my

18 expectation was not only did I have to pay less

19 collateral, but that as referenced by Mr. Sandoz,

20 we'd be getting it back.

21 So I do believe -- I mean, I certainly

22 took that as communication from a party that I was

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1 in privity with that we're saying we're going to

2 do this. I certainly took that.

3 Q Do you think -- so when do you think

4 there was an agreement formed between you and

5 RLI --

6 A Well, you know I'm not a lawyer.

7 Q -- with regard to collateral?

8 A Right? And so --

9 Q Well, you've gone to law school.

10 A I only finished my second -- I didn't

11 even finish my second year. But to be honest, I

12 mean I do believe that if I tell -- if I tell one

13 of my program participants I'm going to do this

14 and I say it in email, could I come back next week

15 say it's not in this contract, program

16 participant? I could. But that would make me a

17 bad partner because I told them I'd do something.

18 So if I tell someone I'm going to do something I'm

19 going to do it and I expect that my business

20 partners operate the same way.

21 Q I just want to know specifically -- I'm

22 just trying to understand specifically what you

283

1 understand to be the agreements between the

2 defendants and RLI.

3 A I believe when Mr. Sandoz sent the

4 modified email related to collateral, that that

5 modified the collateral agreement pursuant to his

6 email, as I testified. If I made a reference

7 based on -- on behalf of Nexus Services to a

8 client, I would tell -- I would -- I would tell

9 the truth and I would keep my word. And if I made

10 a statement that was in -- that was not correct,

11 in other words, if I abridged the contract if I

12 changed the contract, let's say I went to a

13 program participant and I said, "You know what

14 you're supposed to pay this 420 a month, but I'm

15 not going to make you pay anymore because you've

16 been on the program so long." They do totally

17 fine, they're not doing anything wrong. I come

18 back next month because I decide I want money and

19 I say hey, I'm going to take those payments, that

20 would be wrong.

21 So similarly I think that it's wrong

22 for RLI to come and say we're going to take less

284

1 collateral and then for you to say that that was

2 not an agreement and it wasn't binding. It was

3 your officer, the only person from RLI that I ever

4 dealt with that told me that this was the

5 expectation. Why wouldn't I not have assumed that

6 that's what RLI wanted?

7 Q Okay. Other than the indemnity

8 agreement, the collateral agreement, and then this

9 email agreement, in your mind, are there any

10 other --

11 A I do like you. I really, really do.

12 Q Are there any other agreements --

13 A In my mind.

14 Q -- that you -- that the defendants had

15 with RLI?

16 A I would only say that any of the

17 continuing promises, assertions that were made I

18 would count some as agreements but specifically I

19 would point to the indemnity agreement, the

20 collateral agreement and that email because those

21 have been put in front of me today to say that

22 those are what I would identify.

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72 (285 to 288)

<p>285</p> <p>1 I don't know, maybe there's another</p> <p>2 email from Dave Sandoz that said we'll do this</p> <p>3 specific thing or that specific thing that I'm not</p> <p>4 aware of that I would also countenance as</p> <p>5 direction. But that's, you know -- this is --</p> <p>6 based on what we have in front of us I will</p> <p>7 identify those things.</p> <p>8 Q Right. Well, he had another email to</p> <p>9 you asking for a million 250 in collateral but you</p> <p>10 didn't take that as an agreement?</p> <p>11 A I did. We complied.</p> <p>12 Q Well, you said --</p> <p>13 A We moved the book of business as I</p> <p>14 indicated when I testified about that. Remember,</p> <p>15 the line that said if you move the business by</p> <p>16 2/28 you do not have to pay the collateral.</p> <p>17 Q Well --</p> <p>18 A Hold on, Ms. Katsantonis. Because I</p> <p>19 think this is important. I think maybe this is</p> <p>20 where we're missing one another. When you say you</p> <p>21 have -- you have -- it's \$500,000 in collateral.</p> <p>22 Q Uh-huh.</p>	<p>287</p> <p>1 I just want to know are you aware of any other</p> <p>2 specific agreement between any of the defendants</p> <p>3 and RLI other than those three?</p> <p>4 MS. PETERS: Object to form.</p> <p>5 A Can you give me a second?</p> <p>6 Q Sure.</p> <p>7 A I need to give some time --</p> <p>8 Q Of course.</p> <p>9 A -- to think about that.</p> <p>10 I mean, obviously there's an agreement</p> <p>11 in the email with Mr. Chilson connect -- cc'd that</p> <p>12 says -- and I won't find it now. That says that</p> <p>13 if we move -- if we take -- if we find a new</p> <p>14 surety by 2/28, then we don't have to pay the</p> <p>15 1.25 million collateral. So I would countenance</p> <p>16 that as an agreement.</p> <p>17 I would point out again, shortly after</p> <p>18 that -- so that was in December. Your client says</p> <p>19 pay us 1.25 million in collateral on a book of</p> <p>20 business they never lost a dollar on or find a new</p> <p>21 home for your program. We find a new home for the</p> <p>22 program, your client turns around and sends us a</p>
<p>286</p> <p>1 A RLI told Nexus pay less and we'll give</p> <p>2 it back to you. Then RLI said pay more or remove</p> <p>3 the business. Nexus did exactly what RLI directed</p> <p>4 in those instances. We paid less and waited and</p> <p>5 then when they said move the business or pay</p> <p>6 1.25 million, we did that. And that is precisely</p> <p>7 why I filed a bad faith counterclaim against your</p> <p>8 client because every single time your client says</p> <p>9 something I do it and it's not good enough. Never</p> <p>10 is it good enough.</p> <p>11 And it's a little frustrating, to be</p> <p>12 honest, because I feel like we've worked really</p> <p>13 hard to comply and every -- the ground shifts.</p> <p>14 You know, the ground shifts and then it's not what</p> <p>15 was in the original agreement. So I thought that,</p> <p>16 you know -- I thought that the collateral</p> <p>17 expectation was lowered per Mr. Sandoz's email. I</p> <p>18 thought that we complied and performed. I'm sad</p> <p>19 that this business relationship is where it is.</p> <p>20 Q Well, the -- okay. We talked about the</p> <p>21 collateral agreement, the indemnity agreement and</p> <p>22 the email. And you made a general statement. So</p>	<p>288</p> <p>1 demand for \$10 million in collateral. Hence, the</p> <p>2 essence of my bad faith claim.</p> <p>3 I did exactly what you asked me to do.</p> <p>4 You asked me to move the business to another</p> <p>5 surety. You gave me time to do it. I did it. I</p> <p>6 moved the business to another surety. Your email,</p> <p>7 your direction said do that or pay the</p> <p>8 1.25 million.</p> <p>9 And then specifically in the sentence</p> <p>10 after said if you do that, you do not have to pay</p> <p>11 the collateral. I did exactly what RLI asked me</p> <p>12 to do, which is consistent through the entire life</p> <p>13 of this contract. And it wasn't good enough.</p> <p>14 Because after I moved the business, thereby not</p> <p>15 having to pay the collateral, you send me a letter</p> <p>16 demanding \$10 million in collateral after I did</p> <p>17 exactly what RLI did and, by the way, without any</p> <p>18 losses to RLI in the interim.</p> <p>19 So you can kind of understand my</p> <p>20 concern. I feel like the ground shifts all the</p> <p>21 time and I feel like we've done what we're</p> <p>22 supposed to do.</p>



Transcript of Micheal Paul Donovan  
Conducted on February 26, 2020

73 (289 to 292)

289  
1 Q Okay. You understood in Mr. Sandoz's  
2 December 7th, 2016 email, he advised that -- that  
3 they were -- that they understood that the term of  
4 the bond would be much shorter in length than it  
5 was; is that correct?  
6 MS. PETERS: Object to form.  
7 A I do see that in the email.  
8 Q Right. And in addition, Mr. Sandoz  
9 advises to date only 19 bonds had been exonerated;  
10 is that correct?  
11 MS. PETERS: Object to form.  
12 A That's what it says in the email, yeah.  
13 Q Right. And did you also understand  
14 that as of December 7th, 2016, RLI had started  
15 receiving bond breach notice?  
16 MS. PETERS: Object to form.  
17 A Yeah, and as I said, that's not  
18 unusual. What I am confused about, though,  
19 Vivian, is that in the motion for preliminary  
20 injunction, which you won, our assessment, who  
21 works for your client, testified that the bond  
22 breach manual said that the average length of the

290  
1 bond was 18 months and he was complaining that it  
2 was longer than that. This email says six months.  
3 So I would say that at least some people in RLI  
4 obviously knew it was longer. And the reality is  
5 that before Trump, the length of time was, you  
6 know, 12 to 18 months pursuant -- and you can find  
7 that in the bond management handbook. That's not  
8 me.  
9 Q Mr. Sussman wasn't talking about his --  
10 A That has --  
11 MS. PETERS: Object to form.  
12 A I'm sorry. That has changed as this  
13 administration has incarcerated a lot more people  
14 and so those time periods or those cases have  
15 gotten a lot longer. But we couldn't control  
16 that.  
17 Q Okay. Let's -- let's --  
18 A You do see the part where it says it is  
19 not necessary to provide the collateral if we  
20 get -- by 2/28/17 if the program is replaced by  
21 that date it is not necessary to provide the  
22 collateral. We did that. And then the next month

291  
1 you sent me a demand letter for \$10 million.  
2 Q Let's talk about what was happening.  
3 Well, that's inaccurate, right? The first demand  
4 for collateral of \$10 million was in March, right?  
5 A Isn't that what I said? This is --  
6 Q December.  
7 A -- it says March. Well, okay. Listen,  
8 because I think this is really important. I want  
9 to make sure you're understanding. I'm not trying  
10 to develop a -- look at this, it says if -- this  
11 is the date, right? If you get the program moved  
12 by 2/28/17 and it's replaced then you will not  
13 have to provide the collateral.  
14 Q Right.  
15 A So that's what it says. Now, when I  
16 say --  
17 Q Is this to replace --  
18 A I'm sorry, I just want to make sure I  
19 finish --  
20 Q All right.  
21 A -- because otherwise I'll forget what  
22 I'm saying.

292  
1 So when I said that it was the next  
2 month what I said was that in December,  
3 December 7th, you, your client, asked me for  
4 \$1.25 million to continue writing the program past  
5 March 1st or that I find --  
6 Q It's not --  
7 A It absolutely is in here. I mean, it's  
8 in plain language in here as a matter of fact.  
9 And it says that if I find a new home for the  
10 program, it's right here, we know that it takes  
11 time to replace the program, we assume that's the  
12 more preferable route so the goal we have set is  
13 to have the program moved to a better fit for you  
14 by 2/28/17 and if the program is replaced by that  
15 date, it is not necessary to provide the  
16 collateral.  
17 That's what I did and then the very  
18 next month, maybe even several days later, I get a  
19 demand letter for \$10 million. That's bad faith.  
20 You can't tell me on February -- on December 7th  
21 that on February 28th if I move this program  
22 you're not going to charge me this \$1.25 million

Transcript of Micheal Paul Donovan  
Conducted on February 26, 2020

74 (293 to 296)

<p>293</p> <p>1 collateral and then seven days letter send me a 2 demand for 10 million. It doesn't make sense. 3 Q Mr. Donovan, isn't it true that what 4 was being contemplated through this email was a 5 replacement of the RLI bonds by another surety? 6 A Oh, no – 7 MS. PETERS: Object. 8 A – that's not on here. Where do you 9 see that? 10 Q Isn't that what was being discussed? 11 A No, I don't think that's true at all. 12 Q Weren't you working with Mr. Sandoz to 13 think about getting another surety to take over 14 all of the RLI bonds? 15 MS. PETERS: At what point, 16 Ms. Katsantonis? 17 A Hold on. No, that was – with all due 18 respect, that's something you and I discussed and 19 that's something that we said we would do as we 20 were talking about the confidentiality agreement. 21 Do you remember? 22 Q And it's your testimony that</p>	<p>295</p> <p>1 very clear. And what it says is that we're not 2 going to continue -- I mean, you can read it, 3 right? So they're not going to continue to post 4 bonds after February 28th. And what does it say? 5 I mean, again, let's just read it. 6 Q I'm listening. 7 A I'm sorry, I'm so late in summarizing 8 the conference call we had -- we three had a bit 9 ago. Not sure if Tracy Tucker of Evergreen 10 National has reached out to you yet but I hope he 11 has and you are on your way to establishing a 12 long-term relationship with this company. We will 13 do all that we can to help you in the transition 14 so it works well for everyone. Initially we 15 agreed to underwrite the program. We thought the 16 bond terms would be much shorter than we currently 17 realized. Preferred majority of our business and 18 transaction surety to be short tail obligations. 19 Since we had no prior knowledge of this line of 20 surety business, we initially started the program 21 asking for \$500,000 in collateral, later revised 22 the requirement and in a subsequent meeting and</p>
<p>294</p> <p>1 Mr. Sandoz -- 2 A Ma'am, you're -- 3 Q Sure, go ahead. 4 A You've interrupted me several times. 5 Q Go ahead. 6 A And I understand that's part of our 7 term talking to each other. But this is really 8 important. This is my deposition. These are 9 my -- these are the facts. 10 Q Right. 11 A It's my opportunity to tell the facts. 12 I'm answering -- 13 Q Your version of the facts. 14 A -- your question. No, the facts. 15 MS. PETERS: Object to form. 16 Q Okay. 17 MS. PETERS: You're arguing with the 18 witness. 19 A The facts. I mean, you know -- yeah, 20 you're interrupting me. You're arguing with me. 21 Q Okay. 22 A It's insane. This document is very,</p>	<p>296</p> <p>1 interested in coming to the point where we wanted 2 to assess the program as a whole to determine our 3 future involvement. 4 Q So my question -- 5 A So it goes RLI's current exposure is 6 approximately \$25 million to the collateral 7 requirement and must be met as 1.2 million. 8 Collateral can be in the form of cash or in a 9 revocable letter of credit. We know that it takes 10 time to replace the program. We assume that is 11 the more preferable route. So goal we have set is 12 to have the program moved to a better fit for you 13 by 2/28/17 and if the program is replaced by that 14 date it is not necessary to provide the 15 collateral. We will just hold back the 16 contingency cancellation money that you will earn 17 if you qualify for the contingency. 18 Again, Ms. Katsantonis, how can you 19 state that this email suggests that we're moving 20 all the business when the very next sentence after 21 that says that you're going to continue to hold 22 the contingency. It clearly didn't contemplate</p>

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Conducted on February 26, 2020

75 (297 to 300)

<p style="text-align: right;">297</p> <p>1 moving the business. It clearly contemplated that</p> <p>2 on February 28th we'd find another surety to issue</p> <p>3 bonds and if we did we would not have to pay</p> <p>4 1.25 million in collateral.</p> <p>5 I did that. I did exactly what your</p> <p>6 client asked. Days later you send me a request --</p> <p>7 or a demand, not a request, for \$10 million in</p> <p>8 collateral and that precipitates this suit which</p> <p>9 has cost both our companies millions and millions</p> <p>10 of dollars and it's absolutely ridiculous. On its</p> <p>11 face this document proves what I'm saying is true.</p> <p>12 Q Doesn't the document say that you are</p> <p>13 going to assign people to exonerate the bonds?</p> <p>14 MS. PETERS: Object to form.</p> <p>15 Q And they -- and --</p> <p>16 MS. PETERS: Will you define the term</p> <p>17 "exonerate"?</p> <p>18 MR. KOWALCZUK: Yes.</p> <p>19 A Where does it say that? I want to</p> <p>20 understand that you're talking about.</p> <p>21 Q The last sentences.</p> <p>22 MS. PETERS: Can you define your --</p>	<p style="text-align: right;">299</p> <p>1 A -- is that this document specifically</p> <p>2 says that if we find -- if we move the program to</p> <p>3 a better fit by 2/28 that we don't have to provide</p> <p>4 the collateral and that you'll just hold the</p> <p>5 contingency cancellation money. Now, if you were</p> <p>6 going -- if this was predicated on the idea that I</p> <p>7 was going to transfer all the business why would</p> <p>8 you need to hold anything? Clearly, that's not</p> <p>9 what --</p> <p>10 Q Until the transfer is complete.</p> <p>11 A -- the email says. That's not what the</p> <p>12 email says. And the transfer --</p> <p>13 Q That's your --</p> <p>14 A -- would be complete --</p> <p>15 Q This is your -- your understanding --</p> <p>16 MS. PETERS: Object to the form.</p> <p>17 Q -- of an email written by Mr. Sandoz --</p> <p>18 MS. PETERS: Objection.</p> <p>19 Q -- correct?</p> <p>20 MS. PETERS: Object to form.</p> <p>21 A To your point --</p> <p>22 MS. PETERS: Object to form.</p>
<p style="text-align: right;">298</p> <p>1 MS. KATSANTONIS: I'm not being deposed</p> <p>2 right now.</p> <p>3 A You continue to put some folks on the</p> <p>4 task of getting exonerations on our bonds. Yeah,</p> <p>5 we've done that. We do that.</p> <p>6 Q Okay. And is it your -- it's your</p> <p>7 testimony that as of December 7th, there had not</p> <p>8 been discussions about having another surety</p> <p>9 replace the RLI bonds in existence?</p> <p>10 MS. PETERS: Object to form.</p> <p>11 Q Transferring them over to another</p> <p>12 surety?</p> <p>13 MS. PETERS: Object to form.</p> <p>14 A I don't know.</p> <p>15 Q Is that your testimony?</p> <p>16 A I don't know that --</p> <p>17 MS. PETERS: Object to form.</p> <p>18 A I don't know that it was discussed or</p> <p>19 that it wasn't discussed.</p> <p>20 Q Okay.</p> <p>21 A But what I do know --</p> <p>22 Q Okay.</p>	<p style="text-align: right;">300</p> <p>1 A Your employee.</p> <p>2 Q Okay.</p> <p>3 A This is your company. Your client</p> <p>4 wrote this email.</p> <p>5 Q All right. We're going to keep going,</p> <p>6 Mr. Donovan, and we'll see what happened, right?</p> <p>7 So after December 7th, weren't there</p> <p>8 additional bond breaches --</p> <p>9 MS. PETERS: Object to form.</p> <p>10 Q -- of the RLI issued bonds?</p> <p>11 A Well, probably. As I indicated --</p> <p>12 Q Right.</p> <p>13 A -- immigration bonds sometimes breach.</p> <p>14 Q And weren't -- didn't you receive</p> <p>15 notices from RLI that they were being threatened</p> <p>16 to Treasury as a result of bond breaches in</p> <p>17 December?</p> <p>18 A We may have received -- we received a</p> <p>19 lot of communication from RLI misunderstanding</p> <p>20 that process. So that may have been. There was</p> <p>21 confusion about what a referral to Treasury meant,</p> <p>22 how long you had. You know, I think some people</p>



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76 (301 to 304)

<p>301</p> <p>1 in RLI didn't even understand what a claim was.</p> <p>2 Q Let me show --</p> <p>3 A Wait, let me finish. Because it's very</p> <p>4 specific. A claim is a bond that's breached and</p> <p>5 that isn't just specific in the contract which I</p> <p>6 think it is clear, it's also specific in the CFR.</p> <p>7 So when a bond breach is under appeal it is not a</p> <p>8 final invoice and therefore it's not a claim.</p> <p>9 Q We'll talk about that in a moment. But</p> <p>10 let me ask you, was -- were you not being informed</p> <p>11 by RLI that the receiving notice from DHS before</p> <p>12 they initiate legal action.</p> <p>13 Do you recall that?</p> <p>14 MS. PETERS: Object to form.</p> <p>15 A When was that? Do you have a date?</p> <p>16 Q December 19th.</p> <p>17 MS. PETERS: Object to form.</p> <p>18 A So it was 12 days after they told me if</p> <p>19 I get a new surety that I don't have to pay the</p> <p>20 collateral. I'm assuming. I don't know. I</p> <p>21 haven't seen that email but I'll be happy to look</p> <p>22 at it and confirm it.</p>	<p>303</p> <p>1 BY MS. KATSANTONIS:</p> <p>2 Q Okay. Before we took a break, we were</p> <p>3 talking about the December 7th email from</p> <p>4 Mr. Sandoz, correct?</p> <p>5 A Yes, ma'am.</p> <p>6 Q And you testified -- I asked whether</p> <p>7 you recall whether prior to December 7th there</p> <p>8 were discussions between you and Mr. Sandoz or</p> <p>9 with RLI regarding moving RLI's books -- book of</p> <p>10 business, basically transferring RLI's bonds to</p> <p>11 another surety or insurance company.</p> <p>12 MS. PETERS: Object.</p> <p>13 Q Do you recall that question?</p> <p>14 A I do recall --</p> <p>15 MS. PETERS: Object to form.</p> <p>16 A I do recall that question.</p> <p>17 Q Right. And I believe you said you</p> <p>18 can't recall.</p> <p>19 A I don't.</p> <p>20 MS. PETERS: Object to form.</p> <p>21 A Yeah, I don't recall. I think what I</p> <p>22 said to you was that that wasn't what was being</p>
<p>302</p> <p>1 Q Sure. Here. We can mark several,</p> <p>2 there were several. Sorry. This is one dated</p> <p>3 December 19th for Guillermo Mendoza. I'm not</p> <p>4 going to read the whole name.</p> <p>5 A Did you want her to --</p> <p>6 Q And --</p> <p>7 A -- mark that one, Ms. Katsantonis?</p> <p>8 MS. PETERS: What exhibit number is</p> <p>9 that?</p> <p>10 Q Pardon?</p> <p>11 A Did you want her to tag that one?</p> <p>12 Q Yeah.</p> <p>13 A I can give it to her. I just --</p> <p>14 Q Yes.</p> <p>15 A I just didn't want to give her the</p> <p>16 direction.</p> <p>17 MS. PETERS: You guys have to stop.</p> <p>18 (Recess taken.)</p> <p>19 (Donovan Exhibit 15 marked for</p> <p>20 identification and attached to the transcript.)</p> <p>21 THE VIDEOGRAPHER: We are back on the</p> <p>22 record at 18:23.</p>	<p>304</p> <p>1 discussed in this email and then I read you the</p> <p>2 line after that proved that. But I don't know</p> <p>3 if -- I mean we may have had conversations about</p> <p>4 that, I don't know.</p> <p>5 Q Right. And I'm not going to argue with</p> <p>6 you about that that prove that. At the end of</p> <p>7 that email certainly there's discussions about</p> <p>8 the -- RLI's desire to have their bonds canceled?</p> <p>9 MS. PETERS: Object to form.</p> <p>10 A Well, I don't -- I don't -- I don't see</p> <p>11 that. I mean, cancellation of bonds happens every</p> <p>12 time. I see getting exonerations, which means</p> <p>13 that I pay breaches, which we've done. I either,</p> <p>14 you know, exonerate by paying a breach before you</p> <p>15 pay it or I indemnify it by paying a breach after</p> <p>16 you pay it.</p> <p>17 Q Do you understand exoneration to mean</p> <p>18 that you accept the obligations or stand in front</p> <p>19 of the obligations of another?</p> <p>20 MS. PETERS: Object to form.</p> <p>21 A Sure. Obligations meaning claims that</p> <p>22 are made against bonds. When bonds breach they're</p>



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77 (305 to 308)

<p>305</p> <p>1 <b>claims. I can exonerate them by paying it before</b> 2 <b>RLI does or I can indemnify RLI by paying it after</b> 3 <b>RLI does.</b> 4 Q Or you can deliver the alien which is 5 the obligation of the bond, correct? 6 A <b>The obligation --</b> 7 MS. PETERS: Object to form. 8 A <b>-- of the obligor. I am not the</b> 9 <b>obligor.</b> 10 Q But you -- 11 A <b>I can and do go -- not me. Well, I</b> 12 <b>have. I can and do go to clients' houses and say</b> 13 <b>hey, we're going to go today because you have this</b> 14 <b>hearing and it's in your best interest. You've</b> 15 <b>got a good shot of coming home if you go and</b> 16 <b>explain what's going on. But I don't drive a van</b> 17 <b>up to their house and roll them in the back and</b> 18 <b>put handcuffs on them and take them in.</b> 19 Q But -- 20 A <b>When you talk about delivery, I do</b> 21 <b>encourage people to go and when they don't go, we</b> 22 <b>pay. We either exonerate RLI by paying a breach,</b></p>	<p>307</p> <p>1 advising RLI about is hey, you know, we have a 2 program in place to ensure that these program 3 participants meet their obligations under the bond 4 which is to show up at court appearances, right? 5 MS. PETERS: Object to form. 6 A <b>I told RLI that we have a program in</b> 7 <b>place that helps ensure immigrants show up for</b> 8 <b>their court appearances and if they don't that we</b> 9 <b>will exonerate by paying a breach when it is a</b> 10 <b>final claim or indemnify by paying after you pay</b> 11 <b>it.</b> 12 <b>New, let's talk about that, because I</b> 13 <b>did what I agreed to do and continue to. RLI said</b> 14 <b>several things. Even in the course of this email</b> 15 <b>that we were talking about, and then did the</b> 16 <b>opposite.</b> 17 Q Okay. We're going to talk about that 18 in a minute. 19 So you agree that you advised RLI that, 20 you know, you have GPS tracking of these people, 21 so if an issue arises you know where the bond 22 participant will be, right?</p>
<p>306</p> <p>1 <b>a claim, a breach, when we get notice of it or</b> 2 <b>I'll indemnify RLI by paying it after.</b> 3 Q Right. And when you approached RLI to 4 issue bonds, you sold them on this program you had 5 which is based on monitoring participants and 6 ensuring that they show up for their court 7 appearances, right? 8 MS. PETERS: Object to form. 9 A <b>I sold them -- I explained the program.</b> 10 <b>I mean, Mr. Sandoz was excited about the program</b> 11 <b>and I think you can see that in the email. So it</b> 12 <b>wasn't like I was doing a hard sell and you can</b> 13 <b>read the emails and see that Mr. Sandoz is</b> 14 <b>interested. As you pointed out, there was some</b> 15 <b>time between when we initially started talking and</b> 16 <b>when we started doing the business anyway.</b> 17 Q Right. 18 A <b>So I don't think that I was creating</b> 19 <b>some sort of hard sell, I was explaining how the</b> 20 <b>program worked.</b> 21 Q Right. But the -- what you brought to 22 the table, Nexus, what you were offering or</p>	<p>308</p> <p>1 MS. PETERS: Object to form. 2 A <b>I did inform Dave Sandoz that we do GPS</b> 3 <b>monitoring. He also knew that a significant</b> 4 <b>number of our people weren't monitored, we were</b> 5 <b>very clear about that, that we only do monitoring</b> 6 <b>for a short period of time. We were very clear</b> 7 <b>about that. Again --</b> 8 Q You would -- 9 A <b>I don't think that it's -- it's</b> 10 <b>certainly not -- it's certainly not correct to say</b> 11 <b>that Nexus misrepresented RLI. I think it is</b> 12 <b>absolutely correct to say that I feel like RLI</b> 13 <b>misrepresented things to Nexus. For example, when</b> 14 <b>I signed this indemnity agreement and the</b> 15 <b>collateral agreement I signed an agreement that I</b> 16 <b>would pay certain monies. I didn't sign an</b> 17 <b>agreement that I would pay the total amount of the</b> 18 <b>bonds. Why would I do that? I would have just</b> 19 <b>bonded the people with cash.</b> 20 Q Well, you -- 21 A <b>I agreed to pay exonerations or</b> 22 <b>indemnify RLI. And I've done that.</b></p>

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78 (309 to 312)

309

1 Q And what was --

2 A I've done that every step of the way

3 because even your expert says that exonerate means

4 take them in, deliver them. Even your expert

5 report says that. Your expert report doesn't

6 agree with the premise of your case. It says that

7 exonerate is to take the person in. And even if

8 you countenanced our duty to pay collateral at the

9 notice state, it's still nowhere near the

10 \$10 million you demanded. In fact, it's probably

11 not even a million dollars.

12 Q Did you pay the \$10 million?

13 MS. PETERS: Object to form.

14 A What?

15 Q Have you paid the \$10 million?

16 A I just told you it was a completely

17 erroneous and inappropriate demand.

18 Q You've never --

19 A Why would I have paid it?

20 Q Right.

21 A I did everything RLI asked me to do

22 until I literally went somewhere else and brought

310

1 the program and didn't ask for any more bonds,

2 brought the program to another surety as requested

3 by RLI.

4 Q But RLI facilitated --

5 A RLI -- I'm sorry --

6 Q -- you going to another surety --

7 A -- I'm talking.

8 Q -- didn't they?

9 A Please.

10 Q Okay.

11 A So when we moved to using another

12 surety, again, I did exactly what RLI asked me to

13 do.

14 Q What surety did you move to?

15 A Evergreen. It's listed -- it's

16 referenced in here.

17 Q Right. Didn't RLI facilitate those

18 discussions?

19 A Dave Sandoz facilitated those

20 discussions.

21 Q And Greg Chilson, right? Wasn't he the

22 first person to reach out to Evergreen on behalf

311

1 of RLI --

2 A I wouldn't know that.

3 Q I mean of Nexus?

4 A I wouldn't know that.

5 Q Okay.

6 A I don't remember ever speaking to Greg

7 Chilson so I certainly don't know any

8 conversations he's had on my behalf.

9 Q Okay. And isn't it true that by

10 December 7th you knew Mr. Sandoz was leaving RLI,

11 correct?

12 A I don't remember when I found out but I

13 think that's right, yeah.

14 Q Okay. And isn't it true prior to

15 December 7th, you were having discussions with

16 Mr. Sandoz about a new surety venture?

17 A That is true.

18 Q Right?

19 A Well, I wouldn't -- I would say a new

20 surety partner, perhaps. You know, I --

21 Q Who would be the partner? Who was the

22 new partner you were having discussions with

312

1 Mr. Sandoz about?

2 A Well, Mr. Sandoz would be the partner.

3 Q He'd be -- right. So you were having

4 discussions before Mr. Sandoz left RLI that he

5 would form a new company to service Nexus?

6 A Well, my understanding was that RLI

7 didn't want to be in the business anymore. So I

8 mean if you're -- I don't know if that's a

9 negative thing. I know that we had conversations

10 which we just talked about, and about moving the

11 business, this conversation and --

12 Q Right.

13 A -- we -- I know that we had

14 conversations and had conversations prior to this

15 but I don't recollect them specifically.

16 Q Right. And didn't that -- didn't those

17 conversations include that the Nexus -- excuse me.

18 That the RLI-issued bonds would be moved to this

19 new operation?

20 MS. PETERS: Object to form.

21 A No, I don't think so. We may have

22 discussed it, but it was never a requirement.

Transcript of Micheal Paul Donovan  
Conducted on February 26, 2020

79 (313 to 316)

<p>313</p> <p>1 Certainly wasn't mentioned in this email that says</p> <p>2 I don't have to pay the 1.2.</p> <p>3 Q Sure.</p> <p>4 A That I don't have to pay the \$1.25</p> <p>5 million in collateral demanded if I find a new</p> <p>6 home for the program which I did. And then I got</p> <p>7 a \$10 million demand.</p> <p>8 Q Well, we don't agree with your reading</p> <p>9 of that email. So I understand --</p> <p>10 A Can you tell me what --</p> <p>11 Q I'm not going to get into an argument</p> <p>12 with you about it. It's your deposition.</p> <p>13 A Well, I'm sorry, with all -- with all</p> <p>14 due respect, I can't -- I literally do not</p> <p>15 understand how could you read it different. If</p> <p>16 you -- would you please tell me what this email</p> <p>17 says if it says something different because I -- I</p> <p>18 mean I looked at --</p> <p>19 Q Do you believe -- do you believe</p> <p>20 that -- your reading is that RLI was going to hang</p> <p>21 on to its 25 million in exposure?</p> <p>22 A Well, yeah, because it says right</p>	<p>315</p> <p>1 Mr. Donovan.</p> <p>2 A We can do that.</p> <p>3 Q And obviously I don't believe you're</p> <p>4 reading the full email.</p> <p>5 A Can you tell me where it says something</p> <p>6 different?</p> <p>7 Q I can show you several places --</p> <p>8 A Where?</p> <p>9 Q -- but that's up to you to create your</p> <p>10 different arguments once I show them to you. But</p> <p>11 let me get back to asking you --</p> <p>12 A Are you going to tell me where in this</p> <p>13 email it says something different? Where does it</p> <p>14 say in this email that I'm supposed to move this</p> <p>15 book of business? You show me that.</p> <p>16 Q Well, the word "replace" is used.</p> <p>17 A Replacing RLI?</p> <p>18 Q Right. Its 25 million exposure, right?</p> <p>19 A Okay. So RLI's current exposure is</p> <p>20 approximately 25 million. So the collateral</p> <p>21 permit that must be --</p> <p>22 Q Right. So there create -- let me just</p>
<p>314</p> <p>1 here --</p> <p>2 Q And that it would hang on to its 25</p> <p>3 million --</p> <p>4 A Hold on. You asked me a question and I</p> <p>5 start answering it. It says right here and again</p> <p>6 we -- to have the program moved to a better fit</p> <p>7 for you by 2/28/17 and if the program is replaced</p> <p>8 by that date it is not necessary to provide the</p> <p>9 collateral. We will just hold back the</p> <p>10 contingency cancellation money that you earn if</p> <p>11 you qualify for contingency.</p> <p>12 Now, that's -- why would you do that if</p> <p>13 you were requiring all the business to be moved?</p> <p>14 That doesn't make any sense. There would be no</p> <p>15 reason for a contingency. The reason you were</p> <p>16 holding the contingency was because the liability</p> <p>17 remained. And if you wanted me to move, if</p> <p>18 Mr. Chilson or Mr. Sandoz wanted that business to</p> <p>19 be moved as a condition to this, then shouldn't it</p> <p>20 have been in this email? Again, I have complied</p> <p>21 with everything your client has asked me to.</p> <p>22 Q Well, we're going to agree to disagree,</p>	<p>316</p> <p>1 ask you this: Isn't the 1 million 250 based on</p> <p>2 their 25 million exposure?</p> <p>3 MS. PETERS: Object to form.</p> <p>4 A Certainly seems to be what this email</p> <p>5 is suggesting.</p> <p>6 Q Right. And so your contention is that</p> <p>7 the 25 million exposure would continue to remain</p> <p>8 after February and yet they wouldn't need</p> <p>9 collateral?</p> <p>10 A And that we would --</p> <p>11 MS. PETERS: Object to form.</p> <p>12 A And that we would continue to manage</p> <p>13 the cancellation of their bonds? It's in here.</p> <p>14 Vivian, it's all in here.</p> <p>15 Q So the 25 million exposure wouldn't go</p> <p>16 away but somehow they would not need collateral?</p> <p>17 MS. PETERS: Object to form.</p> <p>18 A Did your client receive premium for</p> <p>19 that? Do you understand that you got paid to</p> <p>20 write those bonds? Do you understand --</p> <p>21 Q Can you understand that the premium --</p> <p>22 A I'm sorry, I'm not done.</p>

Transcript of Micheal Paul Donovan  
Conducted on February 26, 2020

80 (317 to 320)

317

1 Q -- is earned --  
2 A **Vivian.**  
3 Q -- the day --  
4 A **Vivian.**  
5 Q -- you signed the indemnity --  
6 A **Vivian.**  
7 Q -- agreement?  
8 A **Vivian, please.**  
9 MR. KOWALCZUK: You both have to slow  
10 down.  
11 MS. PETERS: Yeah, you can't talk over  
12 each other, please.  
13 A **You can talk for seven hours and I'll**  
14 **sit here and that will be the best deposition**  
15 **anyone ever had. But what I'm trying to do is**  
16 **answer your question.**  
17 Q Okay.  
18 A **What I'm saying to you is that there's**  
19 **absolutely nothing in this email that compelled me**  
20 **to move the business. You can't point to it**  
21 **because it doesn't exist. And in fact they still**  
22 **wanted me to do it, to manage the cancellation**

318

1 **exoneration. Exoneration which means paying**  
2 **breaches --**  
3 Q Mr. --  
4 A **-- right?**  
5 Q Mr. Donovan --  
6 A **So this is all contemplated in this**  
7 **email.**  
8 Q You can -- you can -- you can -- I  
9 mean, obviously it's your prerogative to stick  
10 with your interpretation of the email and RLI  
11 clearly has another one. But clearly in the  
12 middle of the email it says, "It looks like the  
13 length of exposure runs more than one year as our  
14 records only show 19 bonds exonerated to date.  
15 Due to late average length of exposure runs more  
16 than one year." Right? "Due to the average --  
17 "length of the average bond remains in force, we  
18 will need more collateral than the 500,000  
19 initially anticipated to remain on the program  
20 through the first few months of 2017."  
21 Do you see that?  
22 A **Uh-huh.**

319

1 Q Okay. So they're asking for collateral  
2 already anticipating that they're not going to  
3 continue past 2000 -- the first few months of  
4 2017, right?  
5 A **Okay. Keep reading.**  
6 Q And then the collateral amount is based  
7 on an exposure, 25 million, right?  
8 A **That's what it says.**  
9 Q Right. So why would -- in your  
10 reading, why would RLI not need collateral if it  
11 maintained the 25 million in exposure?  
12 A **Well, let's read. The collateral can**  
13 **be in the form -- because we need to read the**  
14 **whole thing.**  
15 Q But --  
16 A **No, hold, please.**  
17 Q Uh-huh.  
18 A **Please. The collateral can be in the**  
19 **form of cash or an irrevocable letter of credit.**  
20 **I'm just reading it all because I don't want to**  
21 **be -- go IOC route and continue instructions on**  
22 **the method of collateral. We know that it takes**

320

1 **time to replace the program and we assume that's**  
2 **the more preferable route, the more preferable**  
3 **route to replace, the program than pay the**  
4 **collateral.**  
5 Q Uh-huh.  
6 A **So the goal we have set is to have the**  
7 **program moved to better fit for you by 2/28/17 and**  
8 **if the program is replaced by that date it is not**  
9 **necessary to provide the collateral.**  
10 **I will say this --**  
11 Q Right.  
12 A **-- I won't argue with you about this**  
13 **email anymore but I'm quite confident that a jury**  
14 **would understand that that means when you say that**  
15 **I don't have to pay the collateral if I move the**  
16 **program by 2/28, I moved the program --**  
17 Q But don't you think they --  
18 A **-- by 2/28.**  
19 Q Don't you think they mean that you  
20 remove and move their exposure --  
21 A **No. I think that --**  
22 Q -- by replacing them?



Transcript of Micheal Paul Donovan  
Conducted on February 26, 2020

81 (321 to 324)

321	323
<p>1 Why would --</p> <p>2 <b>A First of all --</b></p> <p>3 Q -- they not need collateral if they</p> <p>4 still maintain the exposure?</p> <p>5 <b>A Because in this --</b></p> <p>6 MS. PETERS: Object to form.</p> <p>7 <b>A In the subsequent sentence that you</b></p> <p>8 <b>don't want to acknowledge it says that it's going</b></p> <p>9 <b>to continue to hold collateral. The only reason</b></p> <p>10 <b>to hold collateral would be because you were</b></p> <p>11 <b>continuing to have exposure. Now, look --</b></p> <p>12 Q And doesn't this --</p> <p>13 <b>A -- we can --</b></p> <p>14 Q -- email also talk about they're going</p> <p>15 to continue to review their exposure over time?</p> <p>16 <b>A Exactly my point.</b></p> <p>17 Q Okay.</p> <p>18 <b>A Thank you for making it. Why would</b></p> <p>19 <b>they continue to review their exposure over time</b></p> <p>20 <b>if there was no exposure left? Thank you.</b></p> <p>21 Q As of December 7th. Well, they're</p> <p>22 saying here they're expecting that you're going to</p>	<p>1 <b>A It doesn't say that.</b></p> <p>2 Q Okay.</p> <p>3 <b>A It actually --</b></p> <p>4 Q In December --</p> <p>5 <b>A -- doesn't say that.</b></p> <p>6 Q In December weren't you having</p> <p>7 discussions with Mr. Sandoz about another surety</p> <p>8 operation to take over RLI bonds?</p> <p>9 <b>A It would have --</b></p> <p>10 MS. PETERS: Object to form.</p> <p>11 <b>A It would have been -- it would be sort</b></p> <p>12 <b>of my preference to have those consolidated so I</b></p> <p>13 <b>might have, as a natural course of conversation,</b></p> <p>14 <b>said hey, if we have a new surety partner this</b></p> <p>15 <b>would be an idea.</b></p> <p>16 Q Right. And you talked about --</p> <p>17 <b>A It certainly wasn't --</b></p> <p>18 MS. PETERS: Object to form.</p> <p>19 <b>A It certainly wasn't something I agreed</b></p> <p>20 <b>to do.</b></p> <p>21 Q And in December weren't you having</p> <p>22 discussions with Mr. Sandoz to move the RLI bonds</p>
322	324
<p>1 have their program replaced by --</p> <p>2 <b>A You know what, Vivian --</b></p> <p>3 Q -- February?</p> <p>4 <b>A You know what? You're right. We</b></p> <p>5 <b>should read the rest of it. "We'd also like to do</b></p> <p>6 <b>anything we can to help manage the cancellation of</b></p> <p>7 <b>our bonds. You mentioned you would put some folks</b></p> <p>8 <b>on the task of getting exonerations on our bonds</b></p> <p>9 <b>and we'd like to know the progress."</b></p> <p>10 <b>Again, why would you want to work on</b></p> <p>11 <b>cancellation of the bonds if you're removing the</b></p> <p>12 <b>bonds?</b></p> <p>13 Q We're on December 7th --</p> <p>14 <b>A The whole point -- right.</b></p> <p>15 Q -- and you have two and a half more</p> <p>16 months.</p> <p>17 <b>A That's right.</b></p> <p>18 Q Right?</p> <p>19 <b>A And we only have to pay the collateral</b></p> <p>20 <b>if we don't find a new surety. That's what it</b></p> <p>21 <b>says.</b></p> <p>22 Q All right. To take over our bonds.</p>	<p>1 to this other surety, this new operation and also</p> <p>2 move those -- a portion of the surety premiums?</p> <p>3 MS. PETERS: Object to form.</p> <p>4 <b>A I remember having conversations -- we</b></p> <p>5 <b>had conversations about that. So I do remember</b></p> <p>6 <b>having conversations about that. However, I never</b></p> <p>7 <b>committed to doing that. We never got there. And</b></p> <p>8 <b>it's not mentioned in this email --</b></p> <p>9 Q Okay. But it's --</p> <p>10 <b>A -- at all.</b></p> <p>11 Q But you agree that that is -- that was</p> <p>12 being discussed in December of 2016?</p> <p>13 MS. PETERS: Object to form.</p> <p>14 <b>A I -- I don't know. Do you have a name?</b></p> <p>15 <b>Are you reading from -- you're reading from</b></p> <p>16 <b>something I am trying to recall from five years</b></p> <p>17 <b>ago. If you want to put an email in front of me</b></p> <p>18 <b>I'll confirm it, but I'm not going to step out and</b></p> <p>19 <b>say -- I'm not going to agree with you. I have no</b></p> <p>20 <b>idea what you're reading. The last time you put</b></p> <p>21 <b>an email in front of me it wasn't even from me.</b></p> <p>22 <b>Not the last time but one of the times earlier.</b></p>

Transcript of Micheal Paul Donovan  
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82 (325 to 328)

<p>325</p> <p>1 <b>So I really want to make sure -- I would like to</b> 2 <b>see it before I comment on it any further.</b> 3 Q In December of 2019, wasn't -- sorry, 4 December '16. In December of '16, 5 December 19th -- we were marking an exhibit prior 6 to our break -- didn't RLI send to you past due 7 notices it was receiving for bond breaches? 8 <b>A It may have been. I think this was it,</b> 9 <b>yeah, this is 15. Thank you.</b> 10 Q And do you recall that there were -- it 11 was at that time -- may I see what I handed you? 12 <b>A Here you go. Did you want that one</b> 13 <b>marked as well?</b> 14 Q I'm looking to make sure I get all 15 three. 16 <b>A Gotcha.</b> 17 MS. KATSANTONIS: Okay. So let's mark. 18 You have Exhibit 15, 16, and 17. 19 (Donovan Exhibits 16 and 17 marked for 20 identification and attached to the transcript.) 21 MS. PETERS: Vivian, do you have a copy 22 for me?</p>	<p>327</p> <p>1 I'm not going to read into the record, but you see 2 who the three names are on these subject lines? 3 You can do -- 4 <b>A I do.</b> 5 Q Right? OR, DM, and -- yeah, GR. I 6 don't remember. 7 <b>A I'm not going to independently remember</b> 8 <b>the initials you said --</b> 9 Q All right. But -- 10 <b>A -- so why don't you just come back to</b> 11 <b>them.</b> 12 Q They'll be the same three invoices. 13 <b>A If you have a question, yeah, let me</b> 14 <b>know because otherwise I'll get confused.</b> 15 Q Okay. 16 MS. KATSANTONIS: And go ahead and mark 17 this exhibit. 18 (Donovan Exhibit 18 marked for identifi 19 cation and attached to the transcript.) 20 Q And I'm going to turn to the second 21 page of this exhibit. You're on the -- if you 22 look at the bottom of the front -- well, if you</p>
<p>326</p> <p>1 MS. KATSANTONIS: I do. I'm not sure 2 which ones you have. Mary Donne, do you have the 3 3? 4 MS. PETERS: I just have two. I've got 5 31, last three digits 292 and 290. So I'm missing 6 291. 7 MS. KATSANTONIS: Thank you. 8 MS. PETERS: Thank you. 9 Q All right. And in -- on or about 10 December 19th, 2016, did you receive notices of 11 past due invoices on breached bonds from RLI? 12 <b>A It looks like I received. These are</b> 13 <b>emails from Marco LiMandri.</b> 14 Q Right. 15 <b>A Yeah.</b> 16 Q And so you were advised in December of 17 2016 that DHS was asserting past due notices and 18 that payment needed to be made as soon as possible 19 to avoid DHS legal action, right? 20 <b>A Right. I'm sure we did pay these if</b> 21 <b>they were in fact due.</b> 22 Q All right. And you can see the -- and</p>	<p>328</p> <p>1 look at the front page you're copied on this 2 chain. 3 <b>A Okay.</b> 4 Q And you can look -- you're copied 5 throughout. 6 <b>A I see that.</b> 7 Q All right. So this is an email chain 8 of RLI requesting payment for these invoices. And 9 I'm looking at the middle of the second page, the 10 page being 225585. Mr. Sandoz writes to Nexus 11 advising that, you know, these past due invoices 12 need to be remedied. And it says, "We can't have 13 a relationship with Treasury jeopardized so this 14 has to get resolved very quickly." 15 Do you see that? 16 MS. PETERS: Object to form. 17 <b>A I do see that, yeah.</b> 18 Q Okay. So did you understand that RLI 19 was concerned that the failure to pay these bond 20 invoices was jeopardizing their relationship with 21 the government and Treasury? 22 <b>A I think RLI was much, much, much more</b></p>

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83 (329 to 332)

329  
1 concerned about money than a person's life in this  
2 case. I think you can be concerned about a  
3 person's life and still be okay financially. And  
4 I think we were because we were able to resolve  
5 the matter, obviously. And this person, this  
6 client, thank God, a co-obligor didn't roll up and  
7 deliver her, right? Because it doesn't look like  
8 this was her fault. I haven't spent a lot of time  
9 in this file but it appears --  
10 Q What do you mean it doesn't look like  
11 it wasn't [sic] her fault?  
12 MS. PETERS: If you'd give him a moment  
13 to read through the entire document.  
14 A So it looks like -- yeah, it looks like  
15 she appeared, that she appeared in the wrong  
16 docket, she was in the wrong docket which  
17 typically happens when a person is bonded in  
18 Dallas and Houston. It can happen. And what the  
19 indication is is that, you know, we're trying to  
20 get her in compliance. That's what we normally  
21 do. I don't know -- I don't have this client's  
22 file so I can't testify as to what happened unless

330  
1 I look at the file in its entirety.  
2 But I can say that this is a relatively  
3 normal situation where we would put the life of a  
4 person before money and say, look, we're going to  
5 take some time to help get this person's situation  
6 straight before we have to pay and abridge this  
7 person's right, right? Which is why we've always  
8 said to your client we'd very much like to walk to  
9 the end of this time period, not because we can't  
10 pay or don't want to pay before, but because  
11 during this time period these types of things can  
12 be rescinded and this person could be okay, and  
13 that's important.  
14 Q So didn't you advise RLI that you were  
15 going to pay?  
16 MS. PETERS: Object to form.  
17 A I'm sorry?  
18 Q Didn't you advise RLI that you were  
19 going to pay that bond breach?  
20 A You're talking about this specific  
21 breach?  
22 Q Sure.

331  
1 A So what I'm talking about is generally.  
2 As I told you --  
3 Q Okay.  
4 A -- I have to look at the file to be  
5 able to speak specifically about this client.  
6 Q Right.  
7 A All I can speak to is the document you  
8 have in front of me because I don't know this  
9 client individually.  
10 Q Okay. So you don't recall that you  
11 advised RLI you were going to pay that?  
12 MS. PETERS: Object to form.  
13 A Is it in here?  
14 Q Copy of a check.  
15 MS. PETERS: Why don't you take a  
16 moment to read the document. It's a multipage  
17 document.  
18 Q There's nothing further that --  
19 MS. PETERS: There's -- I'm --  
20 A Yeah, let me read it. So that's a good  
21 point. I should. Anytime I get a multipage  
22 document, I should read it so...

332  
1 Q While you're looking at that I'm going  
2 to move on to the next exhibit.  
3 A I'm going to read this first --  
4 Q You're welcome to.  
5 A -- and answer any questions on it. I  
6 want to make sure that I get a chance to read it  
7 before we move on.  
8 Q I think the next exhibit goes to the  
9 issue.  
10 MS. PETERS: Objection.  
11 A But I want to read this one first --  
12 Q Sure.  
13 A -- because you put it in my hands. And  
14 then I'll read that one.  
15 Q All right. I'm not going to ask you  
16 any further questions about the document so I  
17 think we can move on.  
18 A But I do believe I answered questions  
19 about this document and I may want to qualify them  
20 because I hadn't read it yet so I would like to  
21 finish reading it.  
22 Q You can do that on redirect with

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84 (333 to 336)

<p>1 counsel.</p> <p>2 <b>A You put this in my hand and --</b></p> <p>3 Q I know, but I don't have --</p> <p>4 <b>A -- I would like to do that.</b></p> <p>5 Q I don't have to -- we need to move on</p> <p>6 because of the time.</p> <p>7 <b>A I'm going to finish reading it. It's</b></p> <p>8 <b>two pages and I'm going to read it.</b></p> <p>9 MS. KATSANTONIS: Can you mark this,</p> <p>10 Court Reporter, as the next exhibit?</p> <p>11 MS. PETERS: What's the one that's in</p> <p>12 his hand? Mr. Donovan, is that 18 that's in your</p> <p>13 hand?</p> <p>14 THE WITNESS: It is 18, yes.</p> <p>15 (Donovan Exhibit 19 marked for</p> <p>16 identification and attached to the transcript.)</p> <p>17 MS. PETERS: Thank you.</p> <p>18 Q Was there any qualification you want to</p> <p>19 make after having read 18?</p> <p>20 MS. PETERS: He didn't say he finished.</p> <p>21 <b>A Yeah, I have finished. I still want to</b></p> <p>22 <b>look at the file. Obviously I do remember. As I</b></p>	<p>333</p> <p>1 Q You did not in December.</p> <p>2 <b>A I'm sorry. Did we pay it?</b></p> <p>3 Q Did you -- I'm not being deposed.</p> <p>4 We're going to go through the records.</p> <p>5 So looking at what I just handed you,</p> <p>6 Dave Sandoz writes to Mr. Schneider and copies you</p> <p>7 and advises, "I have to make sure everyone knows</p> <p>8 our back is now against the wall and these three</p> <p>9 bonds have been called. Demands made and date to</p> <p>10 pay has passed and there is no more time to argue</p> <p>11 each case."</p> <p>12 And Mr. Sandoz asks, "What is Nexus'</p> <p>13 intentions of paying the amounts demanded with</p> <p>14 checks going out no later than January 4th to</p> <p>15 clear these three bonds so RLI is not in danger of</p> <p>16 losing their relationship if not more with the</p> <p>17 federal government?"</p> <p>18 Do you see that?</p> <p>19 <b>A I'm reading it. Okay.</b></p> <p>20 Q All right. So you understood that RLI</p> <p>21 was concerned that these payments had not been</p> <p>22 made and that they were in jeopardy of losing</p>
<p>334</p> <p>1 <b>read, I do remember the situation where this was a</b></p> <p>2 <b>client who had actually been taken in on a I-348</b></p> <p>3 <b>to a different field office, so...</b></p> <p>4 Q Right. And there's still an amount</p> <p>5 owed for the bond breach, right? It was mitigated</p> <p>6 but there's still 12,500 owed on that bond breach.</p> <p>7 <b>A Right. That's what it says, yeah.</b></p> <p>8 Q Right. So there was still an amount</p> <p>9 that was due to DHS pursuant to the terms of the</p> <p>10 bond.</p> <p>11 <b>A Are you suggesting -- did we not pay</b></p> <p>12 <b>that? Are you suggesting that that's the balance</b></p> <p>13 <b>that we owe? I'll write you a check right now.</b></p> <p>14 Q Okay.</p> <p>15 <b>A If that's a breach and we didn't pay it</b></p> <p>16 <b>from 2016, I'll write you a check right now.</b></p> <p>17 Q All right.</p> <p>18 <b>A I would have assumed that it would have</b></p> <p>19 <b>been on a demand that you would have brought us --</b></p> <p>20 Q Well, we asked you to pay it and you</p> <p>21 didn't.</p> <p>22 <b>A So you're saying we never paid that?</b></p>	<p>335</p> <p>1 their relationship if not more with the federal</p> <p>2 government, correct?</p> <p>3 MS. PETERS: Object to form.</p> <p>4 <b>A It's definitely in the email that Dave</b></p> <p>5 <b>Sandoz signed, yes.</b></p> <p>6 Q And so you knew it was very important</p> <p>7 to RLI to ensure that these three bonds got paid</p> <p>8 immediately, right?</p> <p>9 <b>A Sure. It was very important to me as</b></p> <p>10 <b>well. Also that the people that were the subject</b></p> <p>11 <b>of the bonds weren't harmed in that process and</b></p> <p>12 <b>that they were taken care of. And I think we've</b></p> <p>13 <b>accomplished all of that. I mean, I think we were</b></p> <p>14 <b>able to pay the bonds and, you know, ensure that,</b></p> <p>15 <b>you know, this person had an opportunity to -- the</b></p> <p>16 <b>individual that went to the wrong office, as your</b></p> <p>17 <b>email states, we tried to help them. You guys</b></p> <p>18 <b>even tried to help them. So --</b></p> <p>19 Q RLI --</p> <p>20 <b>A -- I think that's what we did. I mean,</b></p> <p>21 <b>it's --</b></p> <p>22 Q RLI was demanding immediate payment</p>



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<p>337</p> <p>1 which they had been asking since the previous 2 email and the payment had not been made yet as of 3 December 29th, correct?</p> <p>4 <b>A Right. It says if you have had any</b> 5 <b>success in working with the obligee we have tried</b> 6 <b>to help too, or have been granted more time to</b> 7 <b>resolve the issues.</b></p> <p>8 <b>So I think we were trying to help the</b> 9 <b>program participant while continually</b> 10 <b>acknowledging that we had a duty to perform. And</b> 11 <b>I believe we did perform. We may have in this</b> 12 <b>case indemnified you if you paid it first, I don't</b> 13 <b>know. But, again, I will say that --</b></p> <p>14 Q It's your obligation to pay them, 15 right?</p> <p>16 <b>A If you're saying that we haven't paid</b> 17 <b>it, then I'll pay it.</b></p> <p>18 Q Right. Aren't you supposed to make 19 payments upon demand by RLI under the indemnity 20 agreement?</p> <p>21 <b>A So I can --</b></p> <p>22 MS. PETERS: Object to form.</p>	<p>339</p> <p>1 <b>A We wouldn't want to have an obligation</b> 2 <b>that was sitting out there I would have assumed</b> 3 <b>that you would have told me if I haven't paid it.</b></p> <p>4 MS. KATSANTONIS: I'm going to mark 5 this.</p> <p>6 (Donovan Exhibit 20 marked for 7 identification and attached to the transcript.)</p> <p>8 Q So as of January 10th, 2017, now, you 9 received an email from Bart Davis at RLI saying we 10 need help on this, we need evidence that these 11 were paid by your organization.</p> <p>12 Oh, I'm sorry.</p> <p>13 <b>A I was thinking like when's she going to</b> 14 <b>give me the paper.</b></p> <p>15 Q I apologize.</p> <p>16 <b>A Thank you so much.</b></p> <p>17 Q Right. So again just to get the record 18 clear, this is an email from Bart Davis of RLI to 19 you on January 10th, correct, of 2016?</p> <p>20 <b>A That's what --</b></p> <p>21 Q '17, sorry.</p> <p>22 <b>A Right. That's what it says.</b></p>
<p>338</p> <p>1 <b>A So my understanding is that I can</b> 2 <b>exonerate when a claim is made, which means when a</b> 3 <b>bond is breached, then a claim is made. When that</b> 4 <b>claim is made, I can exonerate RLI by paying it at</b> 5 <b>that time or I can indemnify RLI by paying it if</b> 6 <b>you pay it. I believe in every case we've done</b> 7 <b>that and if in these three cases we haven't,</b> 8 <b>please tell me and I will pay it.</b></p> <p>9 Q Well, I'm telling you that we -- RLI 10 made a demand in December for you to pay and Nexus 11 did not pay in December of 2016, right?</p> <p>12 <b>A Did Nexus pay or do we still owe that</b> 13 <b>money?</b></p> <p>14 Q Well, I'm asking you. Nexus did not 15 pay in December, correct?</p> <p>16 <b>A I don't recollect. I mean, I'm</b> 17 <b>recollecting based on the email.</b></p> <p>18 Q All right.</p> <p>19 <b>A So I can't answer that question. I</b> 20 <b>believe we paid. And, again, I'll ask you if we</b> 21 <b>didn't pay, please let me know so I can pay it.</b></p> <p>22 Q Okay.</p>	<p>340</p> <p>1 Q Okay. It says, "We need help on this 2 ASAP. We need evidence that these were paid by 3 your organization on the 5th."</p> <p>4 Right?</p> <p>5 <b>A That's correct.</b></p> <p>6 Q Okay. And so as of January 10th, 2017, 7 these invoices still had not been paid, correct?</p> <p>8 <b>A Well, I don't know. As of</b> 9 <b>January 10th, he's saying that we need some help</b> 10 <b>ASAP and then evidence of the payments. That's</b> 11 <b>what it says.</b></p> <p>12 Q All right. Let me show you this email.</p> <p>13 MS. KATSANTONIS: Mark this. Oops, 14 sorry.</p> <p>15 (Donovan Exhibit 21 marked for 16 identification and attached to the transcript.)</p> <p>17 MS. PETERS: Do you have an extra?</p> <p>18 Q This is an email from you to Mr. Davis 19 on January 10th --</p> <p>20 <b>A Okay.</b></p> <p>21 Q -- saying, "I have confirmed that these 22 checks were cut and sent. I'm having the finance</p>

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<p>341</p> <p>1 team pull copies of the checks." 2 Do you see that? 3 <b>A I see that.</b> 4 Q And you also say, "I'm going to 5 designate another person to the POC," point of 6 contact, "for immediate communication." 7 Right? 8 <b>A Uh-huh.</b> 9 Q So you recognized that there was a 10 problem with communication between RLI and Nexus 11 with regard to bond breaches; is that correct? 12 MS. PETERS: Object to form. Misstates 13 the document. 14 <b>A I recognized that Bart was concerned</b> 15 <b>and was looking for help ASAP. And I recognize</b> 16 <b>that Laura Piispanen's communications with Erik</b> 17 <b>were breaking down. And so I indicated that I</b> 18 <b>would establish another POC for Bart and did that</b> 19 <b>just to make sure that he was able to get his</b> 20 <b>information.</b> 21 Q Let me ask you something else. Can you 22 go back to the previous email, the one from Bart</p>	<p>343</p> <p>1 <b>A I don't recall. I mean, I see the</b> 2 <b>email.</b> 3 Q Okay. And is it your testimony that if 4 you wrote that they were cut and sent that they 5 were sent on January 10th, 2017? 6 MS. PETERS: Object to form. 7 <b>A My testimony is if I wrote on</b> 8 <b>January 10th that I confirmed that the checks were</b> 9 <b>cut and sent, that that's exactly what it means,</b> 10 <b>that on January 10th I confirmed that the checks</b> 11 <b>were cut and sent. And I probably would have done</b> 12 <b>that with a conversation with somebody to confirm</b> 13 <b>whether the checks were cut and sent. And I think</b> 14 <b>I specified that I was going to have the finance</b> 15 <b>team pull copies of the checks. You know, so I'm</b> 16 <b>sure that I got some kind of verbal communication</b> 17 <b>that that had been done.</b> 18 Q Right. And you were saying that the 19 checks in your email were processed on 20 January 5th; is that correct? 21 <b>A That's what the email says here.</b> 22 Q And by process it could be anything, it</p>
<p>342</p> <p>1 to you? 2 <b>A Uh-huh.</b> 3 Q On the bottom of that email there's an 4 email from Laura that says, "I just called Marco. 5 He checked the database and there is no record of 6 checks being cut." 7 Do you see that? 8 <b>A I do see that, yeah.</b> 9 Q Okay. And so does Big Marco have 10 access to a Nexus database? 11 <b>A No.</b> 12 Q Okay. 13 <b>A I'm assuming he's looking at whether</b> 14 <b>he -- his office sent them money. That would be</b> 15 <b>what I would guess.</b> 16 Q Okay. And looking at your email, your 17 email is, "I have confirmed that the checks were 18 cut and sent." 19 Do you recall that? 20 <b>A I see that.</b> 21 Q Do you recall what steps you took to 22 confirm that the checks were cut and sent?</p>	<p>344</p> <p>1 could mean just a conversation with someone down 2 the hall? 3 <b>A No.</b> 4 Q Or were you trying to advise that the 5 checks were actually cut and sent on January 5th? 6 <b>A So I guess to answer that, the best way</b> 7 <b>to say that is to say if I confirmed that we</b> 8 <b>processed the following checks that means I'm</b> 9 <b>going to say to a person, hey, do this. Did we</b> 10 <b>get it done? That's what I'm going to say.</b> 11 <b>And/or did you do this already? Or something of</b> 12 <b>that effect.</b> 13 <b>But I don't recollect this particular</b> 14 <b>instance, so I don't know specifically but I'm</b> 15 <b>sure that's what I mean.</b> 16 Q And isn't it true that a week later on 17 January 17th, RLI still did not have evidence of 18 any checks being sent for these three checks? 19 <b>A I would have no idea what RLI thought</b> 20 <b>or knew on January 17th in 2017.</b> 21 Q Okay. At this time in January 2017, 22 were checks handwritten or computer generated?</p>

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87 (345 to 348)

<p>345</p> <p>1     <b>A   Probably both.</b></p> <p>2     Q   Okay. And did Nexus or Libre have a --</p> <p>3 routinely write checks but hold them and not send</p> <p>4 them?</p> <p>5     MS. PETERS: Object to form.</p> <p>6     <b>A   Routinely? What do you mean?</b></p> <p>7     Q   Was it an occurrence that happened</p> <p>8 regularly where Libre or Nexus would write checks</p> <p>9 but not send them?</p> <p>10    MS. PETERS: Object to form.</p> <p>11    Q   For any amount of time?</p> <p>12    MS. PETERS: Object to form.</p> <p>13    <b>A   Well, no. I mean not intentionally. A</b></p> <p>14 <b>person might order a check cut and that might</b></p> <p>15 <b>happen on a Tuesday and it might not end up, you</b></p> <p>16 <b>know, in shipping until Thursday or Friday. That</b></p> <p>17 <b>would be pretty normal. But, no, I wouldn't say</b></p> <p>18 <b>that it's normal to say hey, we're going to write</b></p> <p>19 <b>a check and hold it. That being said, I mean, I</b></p> <p>20 <b>can't say that that hasn't ever happened because</b></p> <p>21 <b>there might be a time when it would be</b></p> <p>22 <b>appropriate. I just -- I don't know.</b></p>	<p>347</p> <p>1     MS. PETERS: Is there a copy for me?</p> <p>2     MS. KATSANTONIS: Yep.</p> <p>3     (Donovan Exhibit 22 marked for</p> <p>4 identification and attached to the transcript.)</p> <p>5     Q   So reviewing this email on</p> <p>6 January 17th, Laura is reaching out, again, to</p> <p>7 Nexus advising that she hadn't received copies of</p> <p>8 the checks and Mr. Moore advises I've been out of</p> <p>9 town for the last two weeks. I'm make sure you</p> <p>10 get copies ASAP.</p> <p>11     So as of January 17th, do you know --</p> <p>12 do you have any reason not to -- to question the</p> <p>13 fact that Nexus -- that RLI still did not have</p> <p>14 evidence of any payments to DHS of these invoices?</p> <p>15    <b>A   Well, it does -- it certainly does look</b></p> <p>16 <b>like Laura sent an email. I don't know when this</b></p> <p>17 <b>Laura email is because for -- oh, yeah, it's on</b></p> <p>18 <b>the 17th as well. Okay. So she sends an email.</b></p> <p>19 <b>And then Richard responds to the email and says</b></p> <p>20 <b>he's been out of town.</b></p> <p>21     <b>I would note that that email is a week</b></p> <p>22 <b>after the last one. So I don't know if Richard</b></p>
<p>346</p> <p>1     Q   And, you know, again these checks were</p> <p>2 important to RLI because of their fear of Treasury</p> <p>3 referral at this time, right?</p> <p>4     MS. PETERS: Object to form.</p> <p>5     <b>A   Right. Which I'm happy to see didn't</b></p> <p>6 <b>happen.</b></p> <p>7     Q   And -- well, in fact, you said -- you</p> <p>8 confirmed that the checks had been cut and mailed,</p> <p>9 right?</p> <p>10    MS. PETERS: Object to form.</p> <p>11    <b>A   Right. And I assume that you're going</b></p> <p>12 <b>to tell me that they did in fact receive them or</b></p> <p>13 <b>you're going to tell me that I need to pay them.</b></p> <p>14 <b>Because, as I said, if they're still owed I'll</b></p> <p>15 <b>happily pay them. I didn't realize that we had</b></p> <p>16 <b>any balances from bonds that were due to RLI from</b></p> <p>17 <b>2017. And if we do, I'll pay them right now. Are</b></p> <p>18 <b>you saying we owe \$52,000? Are you asking for</b></p> <p>19 <b>that?</b></p> <p>20    Q   Sorry. Not at this time.</p> <p>21    <b>A   Am I sending this to you? I'm assuming</b></p> <p>22 <b>I'm sending it to you. Not at this time?</b></p>	<p>348</p> <p>1    <b>was responding to say oh, this didn't get done,</b></p> <p>2 <b>I'm going to do it or he just got back into town,</b></p> <p>3 <b>was catching up on his emails and said hey, let me</b></p> <p>4 <b>work on this. I don't know.</b></p> <p>5     MS. KATSANTONIS: Mark that.</p> <p>6     <b>A   But that would be my guess on account</b></p> <p>7 <b>of the fact that he oftentimes catches up with</b></p> <p>8 <b>emails when he comes back in town from out-of-town</b></p> <p>9 <b>trips.</b></p> <p>10    (Donovan Exhibit 23 marked for</p> <p>11 identification and attached to the transcript.)</p> <p>12    Q   So on January 20th, Mr. Moore</p> <p>13 represents to RLI that these checks had been</p> <p>14 issued, correct?</p> <p>15    MS. PETERS: Object to form.</p> <p>16    <b>A   Yes, his email says here's the original</b></p> <p>17 <b>scan, let's try this. But that's what I read. I</b></p> <p>18 <b>mean specifically what his email says is here's</b></p> <p>19 <b>the original scan, let's try this. But I would</b></p> <p>20 <b>assume that that's showing documentation that the</b></p> <p>21 <b>checks were written.</b></p> <p>22</p>

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88 (349 to 352)

<p>349</p> <p>1 (Donovan Exhibit 24 marked for 2 identification and attached to the transcript.) 3 Q All right. I'm forwarding you an email 4 chain dated January 30th, 2017. And on the bottom 5 it's an email internally of RLI that says Libre 6 was to have sent the checks below to the 7 Department of Homeland Security. Laura made 8 several requests. Laura received communication 9 today from the Department of Homeland Security 10 that these payments have not been received. 11 Do you see that? 12 A Yes, I see that. 13 Q And you received a communication from 14 RLI that advised because Nexus had not paid these 15 claims as agreed, that RLI was going to be forced 16 to do so and that as a result of Nexus' failure to 17 meet its obligations under the program and the 18 indemnity agreement, Mr. Davis was going to 19 suspend your authority to execute any further 20 bonds on behalf of RLI effective February 1st. 21 Do you see that? 22 A I do.</p>	<p>351</p> <p>1 So I'm assuming they have been paid. And I'm 2 assuming that they were paid when I represented 3 that they were paid because if I represented that 4 they were paid that's because they were paid or 5 someone told me that the checks were cut and sent. 6 Q You represented that they were paid as 7 of January 5th. But that's not accurate, right? 8 MS. PETERS: Object to form. 9 A I just testified -- what do you mean 10 it's not accurate? 11 Q They had not been sent to the 12 Department of Homeland Security until after 13 January 30th. 14 A I don't know. What I do know -- 15 Q But you did say in your email that they 16 had been sent. 17 MS. PETERS: Object to form. 18 A I said that I had confirmed that they 19 had been processed. 20 Q And sent? 21 A Yeah, absolutely. 22 Q Right. But they had not been, right?</p>
<p>350</p> <p>1 Q Okay. And you understood that RLI, by 2 this time, had been gravely concerned. They 3 advised back in December that these invoices would 4 have to be paid or it would jeopardize their 5 relationship with Treasury, right? 6 MS. PETERS: Object to form. 7 A I don't know gravely concerned since 8 they continued to issue new bonds. I'm not sure 9 how grave the concern was. I think that they 10 understood that we were working with them. I 11 think they understood that we were communicating 12 with them and, as I told you, if these had been 13 paid I will say, and obviously as you can see they 14 were paid, and if they haven't been paid I'll pay 15 them now. 16 Q And isn't it true that they weren't 17 paid until after you received this communication 18 from Mr. Davis? 19 A I honestly don't recollect any of this 20 other than reading the emails. So Vivian, I've 21 asked you multiple times if the bonds were paid or 22 if I need to pay them and you haven't answered me.</p>	<p>352</p> <p>1 A I don't know that. 2 Q Okay. And you don't recall -- 3 A You still haven't answered -- 4 Q -- that they were -- 5 A -- my question as to whether they were 6 paid. 7 Q Do you not recall -- they were 8 eventually paid. Do you not recall -- 9 A Okay. Do you have any doc -- when were 10 they made? Do you have documentation that shows 11 they were paid at a different time? 12 Q This is your deposition and I want to 13 ask you isn't it true that Nexus did not send out 14 these payments until at least January 30th, of 15 2017? 16 MS. PETERS: Object to form. 17 A No, I don't think that's true. I don't 18 recollect this specifically. But that doesn't 19 make any sense. And I've testified based on these 20 documents what the documents say must be true. I 21 don't know what more you want me to say other 22 than, you know, obviously they were paid, right?</p>



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89 (353 to 356)

<p>353</p> <p>1 Ultimately the government did receive payments. I</p> <p>2 will tell you that, you know, when we send appeal</p> <p>3 documents sometimes we don't get 790Cs back for</p> <p>4 three or four months.</p> <p>5 Q What I'm saying is that -- so you're</p> <p>6 blaming it on the government, maybe they lost it?</p> <p>7 A I'm saying that what I said to the best</p> <p>8 of my knowledge is true because I don't lie. What</p> <p>9 I said was that we sent -- I confirmed that these</p> <p>10 were processed and sent.</p> <p>11 Q And your representation was that they</p> <p>12 were sent on January 5th, correct?</p> <p>13 MS. PETERS: Object to form.</p> <p>14 A My representation is that I confirmed</p> <p>15 they were processed and sent on January 5th. I</p> <p>16 wouldn't process them and I wouldn't send them so</p> <p>17 I clearly would have gotten that from somebody. I</p> <p>18 would have confirmed that from someone.</p> <p>19 Q You understood it was important to RLI,</p> <p>20 right?</p> <p>21 MS. PETERS: Object to form.</p> <p>22 Q I mean, Mr. Davis was reaching out to</p>	<p>355</p> <p>1 questions based on the emails.</p> <p>2 Q Right. But --</p> <p>3 A So based on this email -- you showed me</p> <p>4 an email on January 5th that said I had confirmed</p> <p>5 it. So I'm telling you if I said that I must</p> <p>6 have. I don't remember.</p> <p>7 Q Right. And you understood that to be a</p> <p>8 very important issue to RLI at the time?</p> <p>9 MS. PETERS: Object to form.</p> <p>10 A I understood that it was important.</p> <p>11 Q And that they made demand those</p> <p>12 payments be made prior to January 5th?</p> <p>13 A Which is why I'm sure -- which is why</p> <p>14 we paid them.</p> <p>15 (Donovan Exhibit 25 marked for</p> <p>16 identification and attached to the transcript.)</p> <p>17 Q And on -- I'm showing you what's been</p> <p>18 marked as Exhibit 25. It's from Mr. Prescott to</p> <p>19 Laura Piispanen and it provides documentation.</p> <p>20 And if you look, you can see there are certified</p> <p>21 mail documents showing -- certified mail envelopes</p> <p>22 showing that checks were mailed from Verona on</p>
<p>354</p> <p>1 you.</p> <p>2 A I don't even remember talking to</p> <p>3 Mr. Davis. I certainly understand that it's</p> <p>4 important based on the emails and it's important</p> <p>5 to me as well. Also important to me is protecting</p> <p>6 the lives of these program participants, my</p> <p>7 clients who I care about. I think we can do both.</p> <p>8 I think we have done both. I think Nexus does a</p> <p>9 really good job of doing both which is why we have</p> <p>10 met our contractual responsibilities to your</p> <p>11 client by exonerating based on claims that are</p> <p>12 made or indemnifying based on claims that are</p> <p>13 made.</p> <p>14 Q Isn't it true that the checks were not</p> <p>15 mailed until January 30th of 2017?</p> <p>16 MS. PETERS: Object to form.</p> <p>17 A I just told you that under my</p> <p>18 understanding based on the email that I have,</p> <p>19 that's what it is. I don't remember this</p> <p>20 situation so how could I possibly tell you -- I'm</p> <p>21 sorry. How could I possibly confirm to you when I</p> <p>22 don't remember the situation? I'm answering</p>	<p>356</p> <p>1 January 30th, 2017, correct?</p> <p>2 A I do see that.</p> <p>3 Q Okay. All right. Following</p> <p>4 Mr. Davis's email --</p> <p>5 A It looks like there's two checks on</p> <p>6 here. Is there a third check that was received by</p> <p>7 by ICE because if that third check was received</p> <p>8 earlier it would certainly count against -- it</p> <p>9 would cut against your argument.</p> <p>10 So check 10050 was, presuming that this</p> <p>11 envelope is connected to that, was postmarked on</p> <p>12 January 30th. And then check No. 10049, assuming</p> <p>13 that's the envelope attached to it two pages back</p> <p>14 is January 30th. But what about the other check?</p> <p>15 That would be check No. 100051 in the amount of</p> <p>16 20,043.89. When did that one -- when did we -- I</p> <p>17 wasn't on this. But when did Laura get</p> <p>18 confirmation that Jody received that one?</p> <p>19 Q January 31st.</p> <p>20 A January 31st. Can I see that?</p> <p>21 Q I'm not going to mark it. But you can</p> <p>22 see it in the middle of the page.</p>

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Conducted on February 26, 2020

90 (357 to 360)

357

1 MS. PETERS: I'd like to have you do  
2 that.  
3 MS. KATSANTONIS: I can read you the  
4 page number.  
5 **A Do we have a --**  
6 MS. PETERS: I would like to see a copy  
7 of the document you handed him.  
8 **A The problem is, though, that -- where**  
9 **is the copy of the envelope? Because you've got a**  
10 **copy of the envelope for these two. Why wouldn't**  
11 **he have sent you a copy of the envelope for that**  
12 **one if it's later? I mean, how do I know that**  
13 **that one didn't come earlier? He may be marking**  
14 **it but he received --**  
15 Q We can through -- I can go through the  
16 whole email chain but this was the first time he  
17 had confirmed on the 30th that it hadn't been  
18 received which is -- if you look back at the  
19 emails I showed you, which is why Mr. Davis sent  
20 you the email, right --  
21 **A So the first time --**  
22 Q -- that nobody had received anything on

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1 January 30th?  
2 **A So you're saying --**  
3 MS. PETERS: Object to form.  
4 **A -- the first time Jody confirmed that**  
5 **they received it was the 31st?**  
6 Q That's correct.  
7 **A And you're saying that this certified**  
8 **mail was -- so you're saying that the first time**  
9 **he acknowledged receiving it was the 31st? Did he**  
10 **say that they didn't receive it before then? Or**  
11 **is the first time -- what you're saying is he**  
12 **acknowledged receipt on -- that the first time he**  
13 **acknowledged receipt was the 31st.**  
14 Q Well, you can look through the  
15 documents another time, Mr. Donovan --  
16 **A What I'm saying is --**  
17 Q -- but I can tell you -- I can tell you  
18 to the best of my knowledge he confirmed nothing  
19 had been received as of January 30th on any of the  
20 three checks.  
21 **A Right. So there's a missing envelope.**  
22 **I don't know when the envelope was postmarked. I**

359

1 **would really like to see that.**  
2 Q Okay. Following this time frame, and  
3 Mr. Davis sent you that email, and you understood  
4 that RLI -- you understood under the agreement of  
5 indemnity RLI had the right to stop issuing bonds  
6 at any time; is that correct?  
7 **A Yes.**  
8 Q All right.  
9 **A I believe that's true.**  
10 Q And so by the end of February RLI had  
11 stopped issuing bonds on behalf of Nexus, correct?  
12 **A Right. Because we -- as we were asked**  
13 **to do, we found a new home for the program.**  
14 Q Well --  
15 **A That was our option --**  
16 Q -- I won't quibble --  
17 **A -- to do that versus paying the**  
18 **1.25 million in collateral.**  
19 Q Okay. Well, I'm not going to -- that's  
20 your testimony. If that's what you want to say in  
21 your testimony that's okay.  
22 **A I understand that it doesn't help your**

360

1 **case but it is what was said in the email and it's**  
2 **the direction that we got from RLI and it's what**  
3 **we followed.**  
4 Q You can stick with that. If that's  
5 your testimony, that's fine.  
6 **A It's what is in your client's email.**  
7 Q Okay. That's fine.  
8 So on March 3rd, 2017, after this time  
9 frame that we had Mr. Davis's email the end of  
10 January, RLI stopped issuing bonds in February.  
11 Do you have an understanding of how many bond  
12 breach notices RLI had received as of  
13 February 2017?  
14 **A I don't recollect that, no.**  
15 MS. PETERS: Objection.  
16 Okay. Is it an appropriate time for a  
17 break?  
18 **A I think it's probably a good idea.**  
19 **Let's take a five-minute.**  
20 THE VIDEOGRAPHER: We are going off the  
21 record at 19:21.  
22 (Recess taken.)

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91 (361 to 364)

<p>361</p> <p>1 THE VIDEOGRAPHER: We are back on the</p> <p>2 record at 19:47.</p> <p>3 BY MS. KATSANTONIS:</p> <p>4 Q All right. Mr. Donovan, do you recall</p> <p>5 on March 3rd of 2017 RLI sent you a correspondence</p> <p>6 regarding their concerns with recently received</p> <p>7 bond breaches and delays in deficiencies and</p> <p>8 Nexus' responses to RLI's request for records and</p> <p>9 information?</p> <p>10 A I don't recollect it specifically.</p> <p>11 It's just the demand letter for collateral or was</p> <p>12 this before that?</p> <p>13 Q Before that.</p> <p>14 A Okay. I don't recollect it.</p> <p>15 (Donovan Exhibit 26 marked for</p> <p>16 identification and attached to the transcript.)</p> <p>17 MS. PETERS: This is 26?</p> <p>18 THE COURT REPORTER: Yes.</p> <p>19 MS. PETERS: Thank you.</p> <p>20 Q Mr. Donovan, this is a copy dated -- of</p> <p>21 a correspondence dated March 3rd, 2017, addressed</p> <p>22 to your attention from RLI.</p>	<p>363</p> <p>1 Q Isn't the fact that Mr. -- that RLI</p> <p>2 references additional exposure here?</p> <p>3 A I'm sorry, Mr. Sussman.</p> <p>4 Q Right.</p> <p>5 A I got the wrong person. I apologize.</p> <p>6 Q Additional exposure which would be</p> <p>7 penalties and interest, right?</p> <p>8 A Yeah, let me -- let me read it. You</p> <p>9 know what? Let me read it because now I'm trying</p> <p>10 to find -- and I don't want to do that because</p> <p>11 then I'm not able to answer your questions</p> <p>12 directly. So let me just read it. Okay.</p> <p>13 Q All right. So as of March 3rd, this is</p> <p>14 titled "Request for meeting records regarding</p> <p>15 immigration bonds," right?</p> <p>16 A That is what it's titled, yes.</p> <p>17 Q And you understood RLI was requesting a</p> <p>18 meeting with Nexus and requesting access to books</p> <p>19 and records, correct?</p> <p>20 A That's what's in here, yes, ma'am.</p> <p>21 Q Okay. And RLI advised you that your</p> <p>22 attention was needed to this urgent matter,</p>
<p>362</p> <p>1 And in this document, RLI, if you look</p> <p>2 in the middle, talks about one of the causes of</p> <p>3 concerns is past due invoices received from the</p> <p>4 Department of Homeland Security on six separate</p> <p>5 immigration bonds.</p> <p>6 Do you see that?</p> <p>7 A I do.</p> <p>8 Q Okay. And RLI advises you that it</p> <p>9 considers a timely response to any immigration</p> <p>10 bond demand or invoice to be essential, correct?</p> <p>11 A I do see that, yeah.</p> <p>12 Q Okay. And RLI advised that past due</p> <p>13 invoices increase RLI's exposure, correct?</p> <p>14 A I do. I did notice that, yeah.</p> <p>15 Q And --</p> <p>16 A Which is interesting because exposure</p> <p>17 is an element on the indemnity agreement on the</p> <p>18 collateral and that specifically says if the past</p> <p>19 due invoice increases RLI's exposure. I agree</p> <p>20 with Mr. Davis. I think that the exposure</p> <p>21 references breach bonds and I think that</p> <p>22 references that.</p>	<p>364</p> <p>1 correct?</p> <p>2 A Correct.</p> <p>3 Q All right. And it also confirmed that</p> <p>4 it stopped issuing immigration bonds as of</p> <p>5 February 28th, 2017, correct?</p> <p>6 A That's right. It says, "As you know,</p> <p>7 RLI has stopped issuing immigration bonds as of</p> <p>8 February 28th, 2017." I think that's really</p> <p>9 important to understand in the same letter</p> <p>10 Mr. Sussman says that the exposure is growing. I</p> <p>11 just want to be clear that exposure clearly means</p> <p>12 the invoice of breach bonds not new bonds because</p> <p>13 there's no new bond being written. So it's not</p> <p>14 possible --</p> <p>15 Q Well, you don't --</p> <p>16 A -- to say -- I just want to make sure</p> <p>17 we're clear on that. It's clear that Mr. Sussman</p> <p>18 is saying that exposure relates to breached bonds</p> <p>19 which is what I'm saying, which is why I think we</p> <p>20 have complied with the indemnity agreement.</p> <p>21 Q Mr. Sussman will be able to testify to</p> <p>22 what he meant. But when you say breached bonds,</p>

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92 (365 to 368)

<p>365</p> <p>1 do you understand that when a -- when do you 2 believe the bond is in breach? 3 <b>A I believe a bond is in breach when a 4 final claim is made. We'll look at the CFR that 5 specifically states that a claim against a 6 government -- a claim on an immigration bond for 7 the government is when there is a breach and that 8 breach has not been appealed or the appeal has 9 been adjudicated.</b> 10 Q Isn't a notice to deliver a claim on 11 bond saying your bond principal has not shown up 12 pursuant to the request to appear? 13 <b>A I understand that argument. I read 14 your expert report. I understand that your expert 15 says that a claim is when there's a notice to 16 deliver. I believe a claim is when there's a 17 breach. But even if the claim is when there's a 18 notice to deliver there's no way you can 19 substantiate a \$10 million demand based on that 20 because we've never had \$10 million in there to 21 deliver. Probably haven't had a million dollars 22 sitting there just to deliver. So I'm just saying</b></p>	<p>367</p> <p>1 notice to deliver has been issued, an invoice has 2 been issued and now a past due invoice is being 3 issued, correct? 4 <b>A So that would be the -- that would be 5 the time -- the temporal understanding.</b> 6 Q Right. 7 <b>A But, of course you understand that if 8 there's an appeal, then there's -- that's not a 9 final claim because that breach is not determined, 10 right? So if there's --</b> 11 Q Well, that's your -- that's your -- do 12 you understand that an invoice isn't to be issued 13 until after the appeal period has run? 14 <b>A I do understand that. Which is one of 15 the very frustrating realities that we are 16 continuing to have to pay your client breaches 17 that are not -- that are still under appeal and 18 that those are abridging our clients' rights.</b> 19 Q Okay. Did you -- 20 <b>A That's one of the things I was 21 concerned about.</b> 22 Q Did you understand that RLI had a</p>
<p>366</p> <p>1 <b>that I know whether that -- I'm glad we can agree 2 that it's either --</b> 3 Q Well, we can't agree. 4 <b>A -- breaches or notice. Well, you 5 just --</b> 6 Q No. I mean, you can't agree -- I'm 7 not -- you're going to have to ask Mr. Sussman 8 what his understanding is and I'm getting your 9 understanding. So there's no agreement taking 10 place here. 11 <b>A I assume we're deposing Mr. Sussman.</b> 12 Q We're trying to get your understanding. 13 <b>A Sure.</b> 14 Q Okay. And here Mr. Sussman advises 15 that there were six separate immigration bonds 16 that were -- that we had received past due 17 invoices, correct? That RLI, right? 18 <b>A It says that. I don't see the invoices 19 so I'm looking at the words. He said several past 20 due invoices.</b> 21 Q Right. And that means that -- by the 22 time RLI receives a past due invoice, that means a</p>	<p>368</p> <p>1 broader concern with delays and deficiencies in -- 2 in Nexus' responses to RLI's request for records 3 and information? 4 <b>A I understand that's what Mr. Sussman 5 wrote. I also understood that Mr. Sussman could 6 have executed a confidentiality agreement and had 7 access to books and records demand.</b> 8 Q Mr. Donovan, this is a March 3rd email 9 and he also asks for Nexus' financial statements 10 and bank records, correct -- 11 <b>A I should -- I don't know if we had 12 presented the -- let me be clear. I don't know if 13 we presented the confidentiality agreement 14 proposal to him at that point --</b> 15 Q Exactly. 16 <b>A -- because we had just -- but 17 realistically we had just stopped, everything was 18 going great until December and then we're going to 19 have to pay more collateral unless we replace --</b> 20 Q Well, that's not true. 21 <b>A -- and then we replace --</b> 22 Q You knew back in September --</p>



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93 (369 to 372)

<p>369</p> <p>1     <b>A -- and we still have --</b></p> <p>2     Q    Didn't you know back in September,</p> <p>3   October of 2016 that -- didn't Mr. Sandoz advise</p> <p>4   you that RLI was going to stop issuing bonds?</p> <p>5     <b>A   In October? I don't know. I mean, I</b></p> <p>6   <b>don't recollect that. Perhaps.</b></p> <p>7     Q    Right.</p> <p>8     <b>A   You know, I don't remember that</b></p> <p>9   <b>conversation.</b></p> <p>10    Q    All right. So Mr. Sussman gives --</p> <p>11   tells you that RLI wants access to your financial</p> <p>12   statements and then also lists additional</p> <p>13   documents and information that Mr. Sussman is</p> <p>14   asking to receive by March 10th, correct?</p> <p>15   <b>A   You know what, Vivian, that's right.</b></p> <p>16   <b>This is the letter that precipitated our</b></p> <p>17   <b>conversation around a confidentiality agreement.</b></p> <p>18   <b>So it was this letter that precipitated us saying</b></p> <p>19   <b>okay, we need you to sign --</b></p> <p>20    Q    Okay. Let me just --</p> <p>21   <b>A   -- a confidentiality agreement.</b></p> <p>22    Q    All right. He's asking you to provide</p>	<p>371</p> <p>1   letter on or before March 10th?</p> <p>2     <b>A   I don't remember my -- I don't have</b></p> <p>3   <b>recollection of my response. I do know that the</b></p> <p>4   <b>reason -- I was surprised that RLI wasn't</b></p> <p>5   <b>interested in entering a confidentiality agreement</b></p> <p>6   <b>when this email asserted that this was very</b></p> <p>7   <b>important information. But it wasn't important</b></p> <p>8   <b>enough to enter a simple confidentiality</b></p> <p>9   <b>agreement.</b></p> <p>10    Q    Mr. Donovan, wasn't the -- do you</p> <p>11   recall having a discussion with Mr. Sussman prior</p> <p>12   to the issuance of the March 3rd letter?</p> <p>13   <b>A   I don't recall off the top of my head.</b></p> <p>14   <b>It's possible. I'm certain I had a conversation</b></p> <p>15   <b>with him before the 28th, but I don't -- I don't</b></p> <p>16   <b>know when.</b></p> <p>17    Q    Okay. And on March 6th, Mr. Sussman</p> <p>18   writes to you again. Let me mark this.</p> <p>19       MS. PETERS: Can I ask you a question,</p> <p>20   was this document also transmitted by email on or</p> <p>21   about March 10th?</p> <p>22       MS. KATSANTONIS: Ms. Peters, it's not</p>
<p>370</p> <p>1   documents no later than March 10th, correct?</p> <p>2     <b>A   That's correct. That's what is in the</b></p> <p>3   <b>email.</b></p> <p>4     Q    And he says this is critical</p> <p>5   information. It's critical to -- well, he says,</p> <p>6   "We expect the foregoing is critical to Nexus'</p> <p>7   business operations and therefore readily</p> <p>8   available."</p> <p>9       Right?</p> <p>10       MS. PETERS: Objection.</p> <p>11   <b>A   It does say that.</b></p> <p>12    Q    Right. And he also says to the extent</p> <p>13   one or more categories can't be available, explain</p> <p>14   why, right, and provide us with the balance on the</p> <p>15   documents, correct?</p> <p>16   <b>A   That's what it says.</b></p> <p>17    Q    Okay. And he advises you that the</p> <p>18   records and information are essential to RLI's</p> <p>19   ability to evaluate its exposure and protect its</p> <p>20   interest, right?</p> <p>21   <b>A   That's what it says.</b></p> <p>22    Q    Right. And did you respond to this</p>	<p>372</p> <p>1   my deposition. I'd have to look at that.</p> <p>2       (Donovan Exhibit 27 marked for</p> <p>3   identification and attached to the transcript.)</p> <p>4     Q    Okay. This is an email dated</p> <p>5   March 6th, from Mr. Sussman to you and it's,</p> <p>6   "Following up. It's been almost a week since we</p> <p>7   spoke where you agreed to provide dates for a</p> <p>8   meeting with us at your office in Virginia and I</p> <p>9   still have not heard back from you. Please review</p> <p>10   the attached letters. The concerns that I</p> <p>11   expressed are growing."</p> <p>12       And then at the bottom it says, "Please</p> <p>13   comply with the request no later than this Friday</p> <p>14   so that we can prepare to meet with you. If</p> <p>15   there's some reason you cannot get us this</p> <p>16   information, please let me know."</p> <p>17       Do you recall receiving this email from</p> <p>18   Mr. Sussman on March 6th?</p> <p>19   <b>A   I don't recall it, but I certainly see</b></p> <p>20   <b>it and it looks like it was -- well, yeah, it</b></p> <p>21   <b>looks like it was sent to me. I was looking at</b></p> <p>22   <b>the email header.</b></p>

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94 (373 to 376)

373

1 Q Mr. Sussman had communicated with you  
2 by phone prior to March 3rd, right? And then he  
3 sent you the letter on March 3rd and then he  
4 followed again -- followed up again on March 6th  
5 about the concerns and he still had not received a  
6 response by you by March 6th, correct?  
7 MS. PETERS: Object to form.  
8 A Where's the March 3rd email? See, I  
9 think the issue is, you know, you've given me this  
10 letter but I don't have an email cover. This  
11 letter has an email cover. This letter was -- the  
12 March 6th email was sent at 3:35 p.m. on Monday,  
13 March 6th. The March 3rd email, therefore, would  
14 have been sent on Friday. The idea that there is  
15 some long lapse of time, we're talking about a  
16 weekend. So I don't think it's unreasonable if he  
17 did send this email on the 3rd, and I'm looking at  
18 the date on the letter, if he sent this email on  
19 the 3rd and I got it Friday afternoon and I didn't  
20 respond by Monday afternoon, that isn't unusual.  
21 Sometimes I have lots of emails to respond to.  
22 Q Right.

374

1 A So I just don't -- I would have to  
2 see -- it just doesn't seem like an unreasonable  
3 amount of time.  
4 Q But this is an unusual letter for you  
5 to receive from a surety, right? Did you -- were  
6 you concerned when you received this?  
7 A I was concerned. Well, I don't  
8 remember receiving it. I'm sure I was concerned.  
9 I think at that point -- I know that at some point  
10 in that process we began exploring the need for a  
11 confidentiality agreement. I was probably doing  
12 that with counsel internally at that point  
13 although I don't know.  
14 Q You don't know the timing --  
15 A I don't know.  
16 Q -- of any confidentiality agreement  
17 request.  
18 A I know that it was an extensive request  
19 and you know because we've had many conversations  
20 about it.  
21 Q You don't know whether in March of  
22 2017 --

375

1 A I don't remember exactly.  
2 Q -- that issue was even raised?  
3 A I don't remember exactly.  
4 Q Okay. So I'm going to show you a  
5 letter dated March 13th, 2017.  
6 (Donovan Exhibit 28 marked for  
7 identification and attached to the transcript.)  
8 MS. PETERS: And I'm going to object to  
9 you showing him letters without the cover emails.  
10 Q This is a letter dated March 13th,  
11 2017, to you from Mr. Sussman. Do you recall this  
12 letter?  
13 A I do believe I recall this one.  
14 Q And Mr. Sussman says, "This follows my  
15 letter to you dated March 3rd and accompanying  
16 email dated March 6th requesting that Nexus  
17 provide by no later than March 10th specific  
18 records and information as well as available  
19 meeting dates."  
20 Right?  
21 A Yes. I'm going to read it real quick.  
22 Hold on a second.

376

1 Q All right. Have you reviewed the  
2 letter?  
3 A I'm almost done. All right.  
4 Q Mr. Donovan, have you reviewed that  
5 letter?  
6 A I have.  
7 Q Okay. So Mr. Sussman advises in his  
8 letter that he received no response at all from  
9 Nexus to his March 3rd letter, his March 6 this --  
10 or his March 6th email; is that correct?  
11 A It does say that, yeah.  
12 Q Why didn't you respond?  
13 MS. PETERS: Object to form.  
14 A I don't recall. I believe that we --  
15 at that point I began having conversations with  
16 counsel about what we needed to do to protect the  
17 information that was going to be provided. I do  
18 remember I was concerned that I did business with  
19 these people for a year, your clients were fine,  
20 we had an issue at the end where they wanted us to  
21 find another partner. They gave us time. They  
22 said if we paid \$1.2 million in collateral we

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95 (377 to 380)

377

1 could have an indeterminate amount of time, that's  
2 what they said. And we said -- so we said no,  
3 we're going to move the business. We're not going  
4 to do that, we're going do move the business. And  
5 then you demand \$10 million.  
6 And I notice that there was a March 3rd  
7 letter followed by a March 6th letter followed by  
8 a March 10th letter. In a year of working  
9 together, we went months without communicating and  
10 now that you're not receiving premium on a daily  
11 basis I'm getting three letters in a week. I  
12 think that has a lot to do with why RLI took the  
13 action it took. All I was trying to do was to  
14 protect my client information. I would have  
15 given --  
16 Q Did you respond them -- did you respond  
17 to RLI any time --  
18 MS. PETERS: Excuse me. You  
19 interrupted his answer.  
20 Q That's okay.  
21 A Is it?  
22 MS. PETERS: No, it is not okay,

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1 Ms. Katsantonis.  
2 A I wouldn't interrupt you. I respect  
3 you and I don't want to do that.  
4 Q Okay, sorry. I apologize. Go ahead.  
5 A I appreciate it. I really do and I do  
6 respect you. I'm just answering honestly and  
7 trying to -- you know, I --  
8 Q But are you, Mr. Donovan? You just  
9 brought up that they -- you keep referencing this  
10 new argument that you've created today, as best I  
11 can tell, about the December 7th email. You just  
12 referenced it again in your answer.  
13 A What do you mean --  
14 MS. PETERS: Object to the form.  
15 A -- "my new argument"?  
16 Q Have you ever -- when did -- Nexus --  
17 A Can you --  
18 Q -- Nexus has --  
19 A What are you --  
20 Q -- a counterclaim in this action.  
21 A What are you talking about? You said  
22 that I brought a new argument. I want to

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1 understand what you're talking about.  
2 Q You today at several times have  
3 discussed your interpretation of an email dated  
4 December 7th, right?  
5 A Oh, you mean about asking for  
6 collateral or that we find another surety, yes.  
7 Q Your interpretation of that, right?  
8 And do you think that was -- that email was a  
9 significant event?  
10 MS. PETERS: Object to form.  
11 A I think that email is a significant  
12 event because it shows RLI's bad faith.  
13 Q Okay. So is there some reason that was  
14 not included in your counterclaim for bad faith?  
15 MS. PETERS: Object to form.  
16 A I wasn't the lawyer who drafted it.  
17 Q And in fact we've asked you for  
18 interrogatories to list all the bases of your bad  
19 faith and that email's not mentioned in any of  
20 your interrogatory responses, right?  
21 MS. PETERS: Object to form.  
22 Q Isn't that true?

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1 MS. PETERS: Object to form.  
2 A I don't know. I'm assuming so. I  
3 don't think you'd lie --  
4 Q All right.  
5 A -- about that.  
6 Q And when did you and Nexus have an  
7 understanding based on the December 7th email?  
8 When's the first time you had any understanding?  
9 A Well, you have to understand --  
10 MS. PETERS: Object to form.  
11 A -- Vivian, as I told you, I recollected  
12 the December 7th email when you showed it to me  
13 today. So what I recollect from my memory of it  
14 then and reading it, I think I showed -- I read it  
15 and I showed you, Vivian, hey, look at this, this  
16 email. You know, I said -- I read the email and I  
17 said hey Vivian, look, this email says something.  
18 Look at what this email says.  
19 Q You didn't --  
20 A I did that today.  
21 Q Right.  
22 A I did that with you today.

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96 (381 to 384)

381	383
<p>1 Q Yeah, today.</p> <p>2 A Uh-huh.</p> <p>3 Q You didn't believe it back in March of</p> <p>4 2017 that that email had any significance, did</p> <p>5 you?</p> <p>6 A Oh, absolutely --</p> <p>7 MS. PETERS: Objection.</p> <p>8 A I believed it. That's why I found a</p> <p>9 new surety partner so that I could fulfill the</p> <p>10 request of RLI, as --</p> <p>11 Q In March --</p> <p>12 A I'm sorry, I'm not finished.</p> <p>13 Q Sure.</p> <p>14 A As I have from the beginning of this</p> <p>15 relationship, I have done what RLI has asked me to</p> <p>16 do.</p> <p>17 Q Okay. Mr. Donovan --</p> <p>18 A I'm sorry. I'm not finished. Every</p> <p>19 single time, and RLI changes the rules at the very</p> <p>20 end to get more or to get something different --</p> <p>21 Q Okay.</p> <p>22 A -- that's what RLI does every time.</p>	<p>1 A I don't know what we -- I mean, we were</p> <p>2 communicating via counsel. We had meetings. I</p> <p>3 don't know if we raised it or not.</p> <p>4 Q To the best of your knowledge you did</p> <p>5 not, correct?</p> <p>6 MS. PETERS: Object to the form.</p> <p>7 A It doesn't change what the December 7th</p> <p>8 email says, Vivian.</p> <p>9 Q That's not my question. To the best of</p> <p>10 your knowledge, has Nexus ever raised an</p> <p>11 understanding of the December 7th, 2016 email as a</p> <p>12 basis of its bad faith claim?</p> <p>13 MS. PETERS: Object to the form of the</p> <p>14 question.</p> <p>15 A I told you I don't recollect what we</p> <p>16 have -- please, you're already starting to</p> <p>17 interrupt me. I don't know what we provided. But</p> <p>18 my point is it doesn't change the fact that the</p> <p>19 email says what the email says. And I understand</p> <p>20 it doesn't work --</p> <p>21 Q To the best of your knowledge --</p> <p>22 A I understand that it doesn't work for</p>
382	384
<p>1 Q Mr. Donovan, when RLI asked you in</p> <p>2 March of 2017 to discharge its obligations under</p> <p>3 the bond and if no discharge is attainable to</p> <p>4 deposit \$10 million in collateral, did you ever</p> <p>5 respond and say, "I didn't understand Nexus will</p> <p>6 owe you any more collateral because of a</p> <p>7 December 7th email"?</p> <p>8 MS. PETERS: Object to form.</p> <p>9 A I would say this entire litigation has</p> <p>10 been a response.</p> <p>11 Q Did you ever --</p> <p>12 A Hold on a second. Our answering</p> <p>13 counterclaim has been a response, Vivian.</p> <p>14 Q Just answer my --</p> <p>15 A We're here because of the response. I</p> <p>16 answered your question.</p> <p>17 Q No, you didn't.</p> <p>18 A I did.</p> <p>19 Q My answer -- my question to you is did</p> <p>20 you ever raise the December 7th email in response</p> <p>21 to a demand for collateral?</p> <p>22 MS. PETERS: Object to form.</p>	<p>1 your case theory but it is what your client said</p> <p>2 to me. And I took it -- I took it at face --</p> <p>3 Q If this wasn't in --</p> <p>4 A I took it at face value. I believed</p> <p>5 that your client was being honest. I believed</p> <p>6 that they were going to follow through. I found</p> <p>7 another surety and then they demanded --</p> <p>8 Q I understand this is --</p> <p>9 A -- the \$10 million.</p> <p>10 Q You keep repeating the same story,</p> <p>11 Mr. Donovan.</p> <p>12 MR. HARRIS: Objection --</p> <p>13 Q I appreciate it --</p> <p>14 MS. PETERS: -- to the form of the</p> <p>15 question.</p> <p>16 Q -- and it's already on the record but I</p> <p>17 just want an answer to my questions.</p> <p>18 A I was just answering the question.</p> <p>19 Q So if RLI -- if Nexus believed that</p> <p>20 this email had any significance, certainly -- or</p> <p>21 that it had a basis for bad faith, wouldn't you</p> <p>22 have raised it prior to today?</p>



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97 (385 to 388)

<p>385</p> <p>1 MS. PETERS: Object to the form of the 2 question. We haven't even have the 30(b)(6) 3 witness on the question of bad faith. 4 MS. KATSANTONIS: Mary Donne, you can 5 testify -- 6 <b>A This is -- you're --</b> 7 Q I'm asking -- 8 MS. PETERS: Discovery is -- 9 MS. KATSANTONIS: I'm asking 10 Mr. Donovan's understanding. You listed him in an 11 interrogatory with the person with personal 12 knowledge. So I'm asking Mr. Donovan. 13 <b>A Can you repeat the question?</b> 14 Q Yes. 15 If Nexus believed the December 7th, 16 2006 email formed any bases for bad faith, 17 wouldn't it have raised that issue prior to today? 18 MS. PETERS: Object to the form. 19 <b>A I don't -- I'm telling you that that</b> 20 <b>email clearly is evidence of bad faith, ma'am.</b> 21 Q You keep -- 22 <b>A Ma'am, I'm finishing an answer. I am</b></p>	<p>387</p> <p>1 somehow formed the basis of your understanding 2 with regard to collateral? 3 <b>A Honestly, Vivian --</b> 4 MS. PETERS: Object to form. 5 <b>A Honestly, Vivian, I've recollected one</b> 6 <b>email you've put in front of me today. So I</b> 7 <b>don't --</b> 8 Q So the answer is no? 9 <b>A -- recollect any of the other --</b> 10 Q Right. 11 <b>A -- emails about the situation.</b> 12 MS. PETERS: Object to form. 13 Q And to the best of your knowledge -- to 14 the best of your knowledge in -- prior to today, 15 Nexus has never raised to RLI the issue that the 16 December 7th, 2016 email somehow forms the bases 17 for a claim of bad faith; is that true -- 18 MS. PETERS: Object to form. 19 Q -- to the best of your knowledge? 20 MS. PETERS: Object to form. 21 <b>A I disagree. I think it's very obvious.</b> 22 Q So you're saying that to the best of</p>
<p>386</p> <p>1 <b>telling you that that email absolutely indicates</b> 2 <b>bad faith and I believe everybody at this table</b> 3 <b>knows it does. And that's why you're argue -- the</b> 4 <b>only argument you're making now is I didn't raise</b> 5 <b>it before.</b> 6 Q Well, I disagree with you. Nobody at 7 this table thinks anything of the sort. 8 <b>A I think many people do.</b> 9 Q If anybody -- 10 <b>A Well, raise your hand.</b> 11 Q If at any time -- at any time before 12 today did Nexus communicate this position to 13 anyone at RLI? 14 <b>A I don't know.</b> 15 MS. PETERS: Object to form. 16 <b>A Well, actually, no, no, no. I believe</b> 17 <b>there was an absolute understanding with Dave</b> 18 <b>Sandoz that we would not have to pay collateral if</b> 19 <b>we removed that -- if we found a new provider.</b> 20 <b>Absolutely.</b> 21 Q Okay. Did you document anywhere that 22 you believed that the December 7th, 2016 email</p>	<p>388</p> <p>1 your knowledge you believe Nexus raised, before 2 today, the fact that -- or a contention that the 3 December 7th, 2016 email formed a basis for bad 4 faith? 5 MS. PETERS: Object to form. 6 <b>A My -- I'm sorry. My testimony is that</b> 7 <b>that email forms evidence of bad faith. My</b> 8 <b>testimony is that RLI engaged in bad faith through</b> 9 <b>this agreement and that email is evidence of it.</b> 10 <b>Because RLI said that they were going to give me</b> 11 <b>until 2/28 and that after 2/28 I could continue to</b> 12 <b>post bonds for an indeterminate period of time if</b> 13 <b>I posted a 1.25-million-dollar collateral or what</b> 14 <b>they defined as probably my preferred option is</b> 15 <b>find a new provider and that's what I did.</b> 16 <b>And after providing -- finding the new</b> 17 <b>provider I get three rapid emails. I'm glad you</b> 18 <b>point out the temporal issue here. Three rapid</b> 19 <b>emails increasingly more threatening and</b> 20 <b>completely out of scope with the prior</b> 21 <b>communications. I think that's bad faith.</b> 22 Q Okay. And why didn't you relay that</p>

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98 (389 to 392)

389

1 position to RLI at any time prior to today?

2 MS. PETERS: Object to form.

3 **A I – I don't – I haven't been**

4 **communicating with RLI about this since the**

5 **lawyers got involved, right? So we got – the**

6 **lawyers got involved –**

7 Q Well, do you review the pleadings?

8 MS. PETERS: Object to the form.

9 Q That have been filed on behalf of

10 Nexus?

11 **A There have been a lot of pleadings.**

12 Q Yeah.

13 **A I do review most of them.**

14 Q Okay. And do you --

15 MS. PETERS: I'm going to object to

16 this line of questioning as discovery is still

17 open and outstanding. And I believe that the

18 bases for the bad faith claim has been articulated

19 as is required by the Federal Rules of Civil

20 Procedure.

21 MS. KATSANTONIS: Okay.

22 Q Well, we've asked in interrogatories to

390

1 detail each and every bases which form the claims

2 for bad faith and in those interrogatory responses

3 this argument's never been raised. Is that

4 correct, to the best of your knowledge?

5 **A I don't know.**

6 MR. SHOREMAN: Wait, wait, wait. Let

7 me make a statement as the replacement of Eckert

8 Seamans, the lead counsel in this case. We are

9 reviewing all of the discovery responses and we

10 will supplement if necessary.

11 MS. KATSANTONIS: Great. You can

12 change your argument. Go ahead.

13 MS. PETERS: Object to the form of the

14 question.

15 MS. KATSANTONIS: But that's the whole

16 point. You're making new arguments, right?

17 MR. WILLIAMS: Interrogatory --

18 MR. SHOREMAN: We changed counsel.

19 MR. WILLIAMS: Stop for a minute.

20 MR. SHOREMAN: You can -- you can make

21 the argument that we can't bring in evidence.

22 MR. WILLIAMS: No. You can supplement

391

1 it with interrogatories.

2 MS. KATSANTONIS: I want to know -- I'm

3 just going to go ahead and ask.

4 Q Mr. Donovan, can you just list each and

5 every basis for which you believe RLI has acted in

6 bad faith? I want to know each and every one.

7 **A Each and every one?**

8 MR. KOWALCZUK: To the best of your

9 recollection.

10 Q Uh-huh.

11 **A So I will say that RLI's entire**

12 **behavior through this process, once they decided**

13 **that they didn't want to be in this business**

14 **anymore --**

15 Q When was that?

16 **A -- and it's --**

17 Q When did RLI decide?

18 **A I'm not done. Please let -- listen --**

19 **Q Sorry.**

20 **A -- I respect you. I still do. I like**

21 **you. I still do but please let me answer.**

22 **Q Answer the question.**

392

1 **A You ask a question, I start answering,**

2 **you interrupt me. I start answering that, you**

3 **interrupt me. We're five questions in. I never**

4 **get back to the original question. It's not fair.**

5 **Vivian, it's not fair.**

6 Q All right. I'm sorry. Please go

7 ahead.

8 **A Thank you. I think that littered**

9 **through this entire relationship is indicia of**

10 **RLI's bad faith that started with RLI really**

11 **wanting to be in this business and courting us.**

12 **We agree, we join and we say we're going to do**

13 **this. And we do. And then everything's great.**

14 **RLI reduces its collateral requests and then says**

15 **we don't have to pay any more, then randomly**

16 **increases it, now asks for \$1.25 million, says we**

17 **can continue writing bonds indeterminately if we**

18 **pay it. Then -- or we can find another surety for**

19 **the program and not pay the collateral, exactly**

20 **those words.**

21 **So we find a new surety instead of**

22 **paying the collateral and then on March 3rd and**

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99 (393 to 396)

<p>393</p> <p>1 March 6th and March 10th, we get precipitously 2 more threatening communications from RLI now that 3 they aren't receiving daily premiums. So they're 4 no longer getting paid. 5 So now -- now there is definitely a 6 ratcheted up concern. My issue is RLI got paid 7 premium for those bonds. RLI was paid premiums 8 for those bonds. And RLI's a surety. It knows 9 what posting bonds means. 10 RLI decided it didn't want to be in 11 this business any more as -- who writes this 12 letter. Ira points on that the new presidential 13 administration, things are getting longer. RLI is 14 concerned. I think RLI's bad faith is evidence in 15 its communications. I think RLI wanted out of 16 this and decided that, you know, when we said 17 okay, we'll stop, then they decided that wasn't 18 good enough and wanted more. I think that's bad 19 faith. I think when you negotiate knowing that 20 the things that you're offering aren't the things 21 that you're going to stand behind, I call that bad 22 faith.</p>	<p>395</p> <p>1 finds out that its surety VP is leaving, right? 2 So when this decision is made, also Mr. Sandoz is 3 leaving. You pointed that out to me, right, that 4 he -- so obviously at that point he knew he was 5 leaving, right? 6 So yeah, I don't know why RLI decided 7 that it wanted to purge this business. I don't 8 know why RLI decided that this litigation, you 9 know, cutthroat litigation and this kind of -- you 10 know, was the right move. But it wasn't the right 11 move. 12 We have continued to perform under the 13 general indemnity agreement as we had committed. 14 And we have continued to do that in the face of 15 blistering attacks, of unnecessary -- 16 Q Okay. 17 A -- litigation -- 18 Q We can't -- 19 A -- and discovery. It's -- 20 Q All right. I'm going to have to -- 21 A All of it's bad faith. It's all bad 22 faith, Vivian.</p>
<p>394</p> <p>1 Q What are the things that they were 2 offering that they weren't going to stand behind? 3 A They said that if I found a new surety 4 partner by February 28th of 2017, then the 5 \$1.25 million collateral demand wouldn't have to 6 be paid. Then on March 3rd, March 6th, and 7 ultimately March 10th we received successive 8 communications that result in a \$10 million 9 collateral demand. 10 Q Okay. And what time frame -- 11 A And -- and -- 12 Q What time frame when you say throughout 13 this entire relationship I think evidences their 14 bad faith behavior, what time frame are you saying 15 that RLI exhibited bad behavior? 16 A Well, at the end. But when I say it's 17 littered through what I'm talking about is the 18 difference. You see RLI's interaction with Nexus 19 when it's getting premiums every day and making 20 money. 21 Q So what specific -- 22 A You see RLI's reaction to Nexus when it</p>	<p>396</p> <p>1 Q So all of RLI's actions have been bad 2 faith? 3 A All of RLI actions in saying one thing 4 and doing another in the last two to three months 5 of this relationship is absolutely in bad faith 6 and you have put emails in front of me that prove 7 it. You have put documents in front of me that 8 prove it. 9 Q Okay. So that fact that you said that 10 you would pay bond breaches but didn't pay them 11 for two months proves RLI's bad faith? 12 MS. PETERS: Object to form. 13 A I believe we did pay bond breaches. 14 We've continued -- 15 Q Two months later. 16 A -- to perform under the general 17 indemnity agreement. 18 Q Right, two months later based on -- 19 A No, I told you -- 20 Q -- the documents I showed you? 21 A -- that I don't -- first of all, I 22 don't even know where the other check is. You</p>

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100 (397 to 400)

<p>397</p> <p>1 haven't even been able to show me the other 2 envelope. 3 Q Okay. I showed you the -- 4 A I believe -- and that document you 5 showed me, by the way, which I read a little bit 6 of that you didn't want to put into evidence said 7 that there were different -- that there was a 8 timing issue with the receipt of those checks. 9 You want to read that. I'd love to see that other 10 envelope. Did that other envelope arrive earlier 11 because if it did -- 12 Q Mr. Donovan -- 13 A -- then it completely undercuts your 14 argument. 15 Q Okay. Let me ask you something. I'm 16 not trying to make arguments, I'm trying to get 17 the facts. So I want to know the facts not your 18 argument. So I want to know is it your -- what 19 facts are you contending that RLI -- so you're 20 saying that RLI's behavior in the last two months 21 of the relationship was bad faith; is that right? 22 A Vivian --</p>	<p>399</p> <p>1 will be posted. I propose that the information 2 you were given, these were actually sent 30 3 January not 25 January. What's the 25 January 4 date? I don't even know what that is. So there's 5 obviously stuff in here that I -- you've shown me 6 documents but -- 7 Q Isn't it true that -- 8 A -- then you aren't showing me these 9 documents which say that they arrived separately. 10 So I don't know. Again, maybe that's bad faith. 11 MS. PETERS: I would -- 12 Q Mr. Donovan, I showed -- 13 MS. PETERS: -- like to have that 14 document marked. 15 Q I showed you -- 16 MS. KATSANTONIS: You can do that in 17 your redirect. I showed you -- I'm not wasting my 18 time. 19 Q I showed you the two checks that had a 20 postmark of January 30th. Do you have any reason 21 to believe that those two postmarked envelopes 22 were erroneous?</p>
<p>398</p> <p>1 Q Is there a particular -- 2 A -- I've answered the question. Read 3 your exhibits. 4 Q Okay. 5 A I've answered -- 6 Q Is there anything else? 7 A I've answered the question. 8 MS. PETERS: Did you want the 9 previous -- 10 A I've answered the question 11 specifically. 12 Q All right. 13 A Do you have it? 14 MS. PETERS: Yes, she handed it to me. 15 MR. WILLIAMS: Are we going to put that 16 into evidence or not? 17 THE WITNESS: Yeah, I think we should. 18 MS. KATSANTONIS: What document? 19 MS. PETERS: The one you wouldn't mark. 20 A So this is from Jody Prescott. "The 21 other two checks, 1042 and 1049" -- the 1049 is 22 the one I was talking about -- "have arrived and</p>	<p>400</p> <p>1 MS. PETERS: Object to form. 2 A You showed me two checks and two 3 envelopes -- 4 Q Right. 5 A -- that you were stapled to it. 6 Q My question is -- 7 A I said -- 8 Q -- do you have any reason -- 9 A What I'm saying to you is the fact that 10 it's not -- 11 Q Okay. 12 A I'm answering your question, Vivian. 13 The fact that it's not a full record and the fact 14 that you're not willing to put certain things in 15 evidence does make me question. And I'm not -- 16 and I do want to see it all before -- 17 Q All right. 18 A Because I don't recollect it. 19 Q Okay. 20 A So I'm being sneaked on -- 21 Q Mr. Donovan, okay, I -- I need to -- 22 A -- emails that you're putting in front</p>



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101 (401 to 404)

<p>401</p> <p>1 of me.</p> <p>2 Q I do need to cut you off because I only</p> <p>3 have limited time and if we're going to keep</p> <p>4 talking like this, I -- that is not okay --</p> <p>5 A I'm just --</p> <p>6 Q -- with my deposition.</p> <p>7 A -- answering your question.</p> <p>8 Q No, you're not. I asked you one</p> <p>9 question. Did you have any evidence or reason to</p> <p>10 believe that those postmarked dates on the</p> <p>11 envelope were incorrect?</p> <p>12 A And I answered.</p> <p>13 Q That's a yes or no.</p> <p>14 A Yes. Yes, I don't have the --</p> <p>15 Q All right.</p> <p>16 A -- full complement --</p> <p>17 Q Mr. Donovan --</p> <p>18 A I don't have the third envelope --</p> <p>19 Q Mr. Donovan, let me ask you --</p> <p>20 A -- and this email says something</p> <p>21 different.</p> <p>22 Q Getting back to the breach of duty of</p>	<p>403</p> <p>1 to you. I believe I've answered that question.</p> <p>2 Q Okay. So other than that which you've</p> <p>3 repeated several times, is there anything else?</p> <p>4 A I believe I've answered the question.</p> <p>5 MS. PETERS: Object to form.</p> <p>6 Q Okay. So sitting here today there's</p> <p>7 nothing else you can add to that, correct?</p> <p>8 A I believe I've answered the question</p> <p>9 fully.</p> <p>10 Q Okay.</p> <p>11 MS. PETERS: And I'm going to -- are</p> <p>12 you asking the witness before the March date or</p> <p>13 after the March date?</p> <p>14 MS. KATSANTONIS: Ms. Donne Peters,</p> <p>15 I've already asked my question. Thank you. You</p> <p>16 can ask him whatever you want on redirect.</p> <p>17 Q What is the current financial condition</p> <p>18 of Libre and Nexus? Are you operating at a profit</p> <p>19 or a loss?</p> <p>20 MS. PETERS: Object to form.</p> <p>21 A I don't know.</p> <p>22 Q And so is it fair to say you don't</p>
<p>402</p> <p>1 good faith and fair dealing or bad faith. Are</p> <p>2 there any other facts that you're aware of that</p> <p>3 RLI acted in bad faith?</p> <p>4 A I believe I've answered that question.</p> <p>5 I think there are many instances of RLI acting in</p> <p>6 bad faith. And even now --</p> <p>7 Q So sitting here --</p> <p>8 A -- even still --</p> <p>9 Q -- today I want to know exactly -- I</p> <p>10 need to know specifically. Today you've given me</p> <p>11 the recitation, I have it. Are there any other</p> <p>12 facts sitting here today that you believe were RLI</p> <p>13 acting in bad faith?</p> <p>14 MS. PETERS: Object to form.</p> <p>15 A You mean other than RLI lying in its</p> <p>16 December 7th email and then lying again when it</p> <p>17 said we didn't have to post collateral if we found</p> <p>18 a new surety partner and then demanding</p> <p>19 \$10 million in collateral days after we find a new</p> <p>20 surety partner? You mean other than that?</p> <p>21 I think there are plenty of instances</p> <p>22 of indicia of bad faith and that's what I'm saying</p>	<p>404</p> <p>1 know, sitting here today, whether Nexus Services</p> <p>2 or Libre is operating at a 5 million profit or a</p> <p>3 5 million loss, for example? Within that range</p> <p>4 you don't know?</p> <p>5 A I think that we are close to a</p> <p>6 breakeven point which is what we would anticipate.</p> <p>7 I don't know because the process of this</p> <p>8 litigation and the compulsions on the discovery --</p> <p>9 or the injunctive orders, you completely -- it</p> <p>10 made it very difficult. We had a lot of work to</p> <p>11 do to get QuickBooks up to date, which is what you</p> <p>12 wanted to see. So we -- we put a lot of work in</p> <p>13 it. So we are working with Grant Thornton, who</p> <p>14 we've hired and another accountant to get our</p> <p>15 financial books and records in a better place.</p> <p>16 Q When was the -- do you know what your</p> <p>17 financial condition is as of -- was as of 2017?</p> <p>18 A Not off the top of my head.</p> <p>19 Q Do you have documents that would</p> <p>20 evidence what the financial condition is of Nexus</p> <p>21 or Libre as of 2017?</p> <p>22 MS. PETERS: Object to the form of the</p>

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102 (405 to 408)

405

1 question.

2 **A I don't know off the top of my head.**

3 Q Do you know -- so you don't know

4 whether you even have documents that evidence

5 the -- an accurate depiction of the financial

6 condition of Nexus or Libre in 2017?

7 **A I'm saying I don't --**

8 MS. PETERS: Object.

9 **A -- know. And I'm saying I don't know**

10 **because I don't know. And if I say I'm sure we**

11 **do, you're going to say point me to the document.**

12 **And since I don't know, I can't point you to a**

13 **specific document. My answer has to be I don't**

14 **know.**

15 Q As president of Nexus and president of

16 Libre, do you know whether Nexus or Libre was

17 operating at a profit or loss in 2017?

18 MS. PETERS: Object to form.

19 **A I'm -- off the top of my head I'm not**

20 **sure. I'd have to consult the records.**

21 Q So you, sitting here today, can't say

22 whether Nexus or Libre was operating off a profit

406

1 of 5 million or a loss of 5 million sitting here

2 today?

3 **A I don't have any records --**

4 MS. PETERS: Object to the form.

5 **A -- in front of me and I can't tell you**

6 **two years or three years or four years ago at a**

7 **specific time what the company's financial --**

8 **specific financial condition was, but I could look**

9 **at records and hopefully get that information for**

10 **you.**

11 Q Okay. And which records would you look

12 at?

13 **A I would look at Lite -- I would look**

14 **at -- at this point I would look at QuickBooks**

15 **because we have rebuilt QuickBooks pursuant to the**

16 **discovery orders, not really injunctive orders,**

17 **and I would look at our KPIs, I would look at our**

18 **LiteSpeed totals and I would make -- then we would**

19 **make a determination based on what income we had**

20 **and what expenses we have.**

21 Q So is it true that sitting here today

22 you do not have any accurate profit and loss

407

1 statement or balance sheet for the year 2017?

2 **A It is true --**

3 MS. PETERS: Object to form.

4 **A -- sitting here today that I do not**

5 **have that information in front of me and I can't**

6 **quote it.**

7 Q Well, but you're saying that you do

8 have records that show an accurate depiction of

9 Nexus' financial condition?

10 **A No.**

11 Q Or Libre's as of 2017?

12 MS. PETERS: Object to the form.

13 **A I specifically didn't say that.**

14 Q Okay. So you don't have records

15 sitting here today -- as of today, you do not have

16 accurate records of the financial condition of

17 Libre or Nexus as of 2017?

18 MS. PETERS: Object to form.

19 **A Sitting here today I do not have those**

20 **records in front of me. Sitting here today I do**

21 **not know what records exist. I would have to**

22 **consult the records. I would have to look to see**

408

1 **what is and I'm not going to tell you something I**

2 **don't know for sure. So I have to tell you I**

3 **don't know.**

4 Q Okay. So you don't know sitting here

5 today whether or not Nexus or Libre has an

6 accurate 2017 profit and loss statement or an

7 accurate balance sheet?

8 **A I don't know.**

9 MS. PETERS: Object to the form of the

10 question.

11 Q Okay. And the same for 2018. Sitting

12 here today you do not have an understanding as to

13 whether or not Nexus and Libre has an accurate

14 profit and loss statement or an accurate balance

15 sheet?

16 **A I'd have --**

17 MS. PETERS: Object to form of the

18 question.

19 **A I'd have to review the records.**

20 Q Okay. So sitting -- what records would

21 you review of 2018?

22 **A I would have to review what records**

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103 (409 to 412)

<p>409</p> <p>1 <b>there are to review and then review them. I don't</b></p> <p>2 <b>know.</b></p> <p>3 Q Well, you've produced profit and loss</p> <p>4 statements and balance sheets in this litigation,</p> <p>5 right, to RLI?</p> <p>6 MS. PETERS: Object to the form.</p> <p>7 <b>A Yes, but I haven't produced them so --</b></p> <p>8 Q Well, Nexus has, right?</p> <p>9 <b>A Let's be clear. I mean, you're asking</b></p> <p>10 <b>me what I know.</b></p> <p>11 Q Okay.</p> <p>12 <b>A I'm testifying to my personal</b></p> <p>13 <b>knowledge. I want to be very clear.</b></p> <p>14 Q Are the balance sheets and profit and</p> <p>15 loss statements provided by Nexus to RLI in this</p> <p>16 litigation accurate?</p> <p>17 MS. PETERS: Object to form.</p> <p>18 <b>A The balance -- yeah, the material were</b></p> <p>19 <b>projections. I think that it says projections.</b></p> <p>20 <b>The balance sheet was based on -- yeah, I think</b></p> <p>21 <b>that they were --</b></p> <p>22 Q I'm talking about throughout the</p>	<p>411</p> <p>1 BY MS. KATSANTONIS:</p> <p>2 Q I'm trying to ask whether or not you</p> <p>3 have an understanding whether accurate financial</p> <p>4 statements have been provided to RLI.</p> <p>5 MS. PETERS: Object to form.</p> <p>6 <b>A We certainly would never provide</b></p> <p>7 <b>inaccurate statements on purpose. That being</b></p> <p>8 <b>said, I think we know that there have been</b></p> <p>9 <b>revisions to financial statements. So I can't sit</b></p> <p>10 <b>here and tell you that every statement that you</b></p> <p>11 <b>received is accurate if I provided a revised</b></p> <p>12 <b>financial statement. What I can tell you is that</b></p> <p>13 <b>we would never provide erroneous information on</b></p> <p>14 <b>purpose.</b></p> <p>15 Q Okay. Do you -- do you have an</p> <p>16 understanding as to whether Nexus or Libre</p> <p>17 operated at a profit or loss in 2018?</p> <p>18 MS. PETERS: Object to form.</p> <p>19 <b>A Sitting here right now I can't tell</b></p> <p>20 <b>you.</b></p> <p>21 Q And what document would you need to</p> <p>22 tell me?</p>
<p>410</p> <p>1 litigation. I'm sorry, I don't want to confuse</p> <p>2 you.</p> <p>3 <b>A Oh, got you. Okay. I appreciate it.</b></p> <p>4 Q All right. I'm talking about</p> <p>5 throughout all the litigation.</p> <p>6 <b>A I thought you were taking me back to</b></p> <p>7 <b>the beginning.</b></p> <p>8 Q No, no, I'm sorry.</p> <p>9 <b>A Okay.</b></p> <p>10 Q I'm talking about throughout the</p> <p>11 litigation Nexus has produced a series of profit</p> <p>12 and loss statements and balance sheets for Libre</p> <p>13 by Nexus or Nexus Services. And my question to</p> <p>14 you is: Has Nexus or Libre provided accurate</p> <p>15 profit and loss statements or balance sheets for</p> <p>16 their company for the years 2017 or 2018?</p> <p>17 MS. PETERS: I'm going to object to the</p> <p>18 form of the question. You asked for reports to be</p> <p>19 run. That's not the same thing.</p> <p>20 MS. KATSANTONIS: Ms. Donne Peters, I</p> <p>21 know you're trying to coach him and that's fine.</p> <p>22 MS. PETERS: That's not true.</p>	<p>412</p> <p>1 MS. PETERS: Object to form.</p> <p>2 <b>A I would probably look in QuickBooks. I</b></p> <p>3 <b>would go to my finance team and sit down. I would</b></p> <p>4 <b>go through QuickBooks and try to determine, again,</b></p> <p>5 <b>revenue and what our expenses were and make sure</b></p> <p>6 <b>that those were -- that those files were</b></p> <p>7 <b>reconciled and find out.</b></p> <p>8 Q So if Nexus or Libre has provided</p> <p>9 QuickBooks statements to RLI in this litigation</p> <p>10 for the period of 2018, is it your testimony that</p> <p>11 those statements are accurate?</p> <p>12 MS. PETERS: Object to form.</p> <p>13 <b>A I think my testimony is clear. We</b></p> <p>14 <b>would never provide inaccurate statements. I</b></p> <p>15 <b>can't tell you that there weren't mistakes. I</b></p> <p>16 <b>can't tell you that they weren't revised. I can't</b></p> <p>17 <b>tell you -- because you know, you well know, you</b></p> <p>18 <b>sat through the special master situation so you</b></p> <p>19 <b>understand that we were inputting and reconciling</b></p> <p>20 <b>records. So it's sort of a trick question. I</b></p> <p>21 <b>can't tell you -- oh, it is because I can't tell</b></p> <p>22 <b>you -- I can't tell you yes, because you're going</b></p>

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104 (413 to 416)

413

1 to say well, wait a second. I can tell you that  
2 we would never provide a false and misleading. We  
3 would never want to do that.  
4 Q You understand that RLI has asked for  
5 what your financial condition is, right,  
6 throughout this litigation of Nexus and Libre?  
7 Right?  
8 MS. PETERS: Object to form.  
9 A I do understand. That would -- it  
10 surprised me because there's nothing in the  
11 general indemnity agreement that says anything  
12 about solvency or the right to compel obligations  
13 just because a company has a -- there's nothing in  
14 there. So I was a little surprised. But yes, I  
15 do know that they've asked.  
16 Q Right, and they've been ordered to be  
17 produced.  
18 MS. PETERS: Object to form.  
19 Q Correct?  
20 A We are --  
21 MS. PETERS: Object to form.  
22 A -- under an injunction. And we have

414

1 provided access to the books and records. And  
2 that injunction said that we provide you access to  
3 books and records as they exist not as you want  
4 them to exist.  
5 Q Right. So my question is as they  
6 exist, are they an accurate -- are the financial  
7 statements provided off your QuickBooks an  
8 actual -- an accurate depiction of the financial  
9 condition of Nexus and Libre?  
10 MS. PETERS: Object to the form. Vague  
11 as to time. And he's also stated they were under  
12 accounting review.  
13 A I think that we have -- what I've  
14 stated is that we would not provide misleading  
15 information on purpose and that any revisions of  
16 information have been because we found new  
17 information or we were inputting or reconciling  
18 information.  
19 Q So you can't answer my question. You  
20 just --  
21 A I just did.  
22 Q So you don't know whether or not you've

415

1 provided accurate statements to RLI. Is that  
2 true?  
3 A There have been --  
4 MS. PETERS: Object to form.  
5 A -- hundreds of thousands of pages  
6 transmitted in this litigation. For me to sit  
7 here and tell you that a hundred thousand plus  
8 pages are a hundred percent accurate because no  
9 one ever made a human error would be silly. So I  
10 cannot tell --  
11 Q To the best of your --  
12 A The question that you're --  
13 Q To the best of your --  
14 A I'm not finished.  
15 MS. PETERS: You're interrupting him.  
16 A The question that you're asking is  
17 impossible.  
18 Q To the best of your --  
19 A I am answering it as best I can.  
20 Q To the best of your understanding,  
21 when, if ever, have you provided RLI with accurate  
22 reports or financial statements of the condition

416

1 of Nexus and Libre?  
2 A Anytime --  
3 MS. PETERS: Object to form.  
4 A Anytime we've provided RLI  
5 documentation it's been accurate or accurate at  
6 the time or accurate as we know it to be accurate.  
7 We obviously have been supplementing our  
8 production under this litigation as you well know.  
9 And that obviously things that -- when the data  
10 from reconciliation of QuickBooks changed  
11 QuickBooks, as you well know because you were  
12 there when we did the special master --  
13 Q Have you filed 2017 tax returns?  
14 A We -- I do not believe we've filed 2017  
15 tax returns.  
16 Q Okay. Why not?  
17 A We were engaged -- well, this  
18 litigation and the injunctive order required us to  
19 completely revisit and do a -- redo our QuickBooks  
20 at the middle of the year. It was incredibly  
21 destructive for us as we indicated.  
22 Q Didn't you advise RLI that you would be



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105 (417 to 420)

<p>417</p> <p>1 doing --</p> <p>2 <b>A I'm not done. I'm actually not --</b></p> <p>3 MS. PETERS: You interrupted him again.</p> <p>4 MS. KATSANTONIS: I don't care. We</p> <p>5 don't have much time.</p> <p>6 (Numerous people speaking at once.)</p> <p>7 <b>A But you can't start interrupting me</b></p> <p>8 <b>just because --</b></p> <p>9 MS. PETERS: You can't cut him off.</p> <p>10 That's the --</p> <p>11 MR. KOWALCZUK: Wait a minute. Hold on</p> <p>12 a second. I haven't said anything all day, okay.</p> <p>13 For most of the day it's been pretty good. Now, I</p> <p>14 know it's late and everyone's tired, but if you're</p> <p>15 going to sit here and say on record that you don't</p> <p>16 care if you're interrupting the witness, then</p> <p>17 we're just going to stop and leave.</p> <p>18 MS. KATSANTONIS: Well, there --</p> <p>19 MR. KOWALCZUK: He's going to finish</p> <p>20 his answer.</p> <p>21 MS. KATSANTONIS: I hear you,</p> <p>22 Mr. Kowalczuk but there's -- there's a -- I'm also</p>	<p>419</p> <p>1 <b>going to pause you and I am going to continue the</b></p> <p>2 <b>answer --</b></p> <p>3 Q That's fine.</p> <p>4 <b>A -- because that is my right and I am</b></p> <p>5 <b>going to take it.</b></p> <p>6 Q Okay. So sitting here today, is it</p> <p>7 your testimony that you do not -- you have no</p> <p>8 understanding of whether or not -- we already</p> <p>9 talked about this -- Nexus or Libre operated at a</p> <p>10 profit or loss in 2019?</p> <p>11 <b>A I don't think I -- I don't think no</b></p> <p>12 <b>understanding is an incorrect use of the term. I</b></p> <p>13 <b>can't tell you right now because I don't have the</b></p> <p>14 <b>documents in front of me. I don't have the</b></p> <p>15 <b>numbers in front of me so I can't -- I can't</b></p> <p>16 <b>confirm that.</b></p> <p>17 Q What is your general understanding?</p> <p>18 Did Nexus or Libre operate at a profit or loss in</p> <p>19 2019?</p> <p>20 <b>A I believe --</b></p> <p>21 MS. PETERS: Object to form.</p> <p>22 <b>A I believe we operated at a small loss.</b></p>
<p>418</p> <p>1 entitled to short answers --</p> <p>2 MR. KOWALCZUK: Where does it say that</p> <p>3 in the rules?</p> <p>4 MS. KATSANTONIS: -- to my questions.</p> <p>5 I'm -- I'm -- I'm also entitled to a answer that</p> <p>6 goes to the scope of my question and doesn't</p> <p>7 increase the scope. Okay? We have limited time.</p> <p>8 And so I hear what you're saying and I certainly</p> <p>9 do not mean any disrespect to you. I certainly do</p> <p>10 not. And --</p> <p>11 <b>A And Vivian, I'm going to tell --</b></p> <p>12 Q But I'm trying to get, you know, the</p> <p>13 evidence I need before our time.</p> <p>14 <b>A Well, I appreciate that.</b></p> <p>15 Q Okay.</p> <p>16 <b>A I want you to hear me too, okay? I</b></p> <p>17 <b>don't mean to disrespect you either. But this is</b></p> <p>18 <b>a deposition. I'm under oath. You're asking me</b></p> <p>19 <b>questions. I'm answering them. And this</b></p> <p>20 <b>deposition will exist long after this case. I am</b></p> <p>21 <b>going to answer these questions. I am going to</b></p> <p>22 <b>give you my answers and if you interrupt me, I am</b></p>	<p>420</p> <p>1 Q Okay. A small loss meaning?</p> <p>2 <b>A I don't know. As I've told you,</b></p> <p>3 <b>without the information I can't possibly tell you.</b></p> <p>4 Q Okay. And what about 2018?</p> <p>5 <b>A I think that 2018 is probably similar.</b></p> <p>6 <b>But I don't know.</b></p> <p>7 Q Okay. And did you file tax returns for</p> <p>8 2018?</p> <p>9 <b>A No.</b></p> <p>10 Q Okay. And --</p> <p>11 MS. KATSANTONIS: Let's take a break</p> <p>12 for one second. Can you tell me how much time is</p> <p>13 left?</p> <p>14 THE VIDEOGRAPHER: We are going off the</p> <p>15 record at 20:38.</p> <p>16 (Recess taken.)</p> <p>17 THE VIDEOGRAPHER: We are back on the</p> <p>18 record at 20:56.</p> <p>19 Q Okay. And prior to getting off the</p> <p>20 record, we were talking about the financials of</p> <p>21 the company and I think we talked about your</p> <p>22 understanding of whether or not the company has</p>

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106 (421 to 424)

421

1 operated on a profit or loss. We're talking about  
2 2019, '18. What about 2017?  
3 **A I don't know.**  
4 Q Okay. And it's true that you have no  
5 audited financial statements for 2017, '18, or  
6 '19?  
7 **A That is correct.**  
8 Q And it's true that you haven't filed  
9 any tax returns for 2017, '18, and '19; is that  
10 correct?  
11 **A That's correct.**  
12 Q Okay.  
13 **A Vivian, I'm sorry. Could I get some**  
14 **coffee. Richard, could you grab me a coffee.**  
15 **Thank you so much. I'm so sorry.**  
16 Q No, no problem.  
17 And can you tell me whether the income,  
18 the revenue stream from 2018 to 2019, has that  
19 increased or decreased?  
20 **A I don't know without looking at the**  
21 **records. I'm sorry.**  
22 Q Do you have a general understanding

422

1 whether you believe it's increased or decreased at  
2 all?  
3 MS. PETERS: Object to form.  
4 **A I don't have a general understanding**  
5 **and I would want to answer specifically not**  
6 **generally anyway. So without a specific answer I**  
7 **can't -- I can't say.**  
8 Q Do you know whether or not you're on  
9 track from 2019 to -- well, I guess we're just  
10 into February.  
11 **A 2020, right.**  
12 Q All right. So I'll scratch that for  
13 now.  
14 **A Okay. Ask me in a few months. June**  
15 **perhaps.**  
16 Q Do you have an understanding that in  
17 2019 at least there have been significant bond  
18 breaches on the RLI bonds?  
19 **A As I indicated before, significant**  
20 **breaches on the RLI bonds that I believe are part**  
21 **and parcel to us not being able to contest, you**  
22 **know, breaches at a level of asking for them to be**

423

1 **reconsidered.**  
2 Q Okay. And I'm going to show you -- I'm  
3 going to mark this.  
4 **A Which, by -- was another element of bad**  
5 **faith in not allowing us to do that. That was**  
6 **another thing that we had raised before. I wanted**  
7 **to make sure I mentioned that to you.**  
8 Q Which --  
9 **A There were a lot of other elements to**  
10 **the bad faith now that I think about it. Because**  
11 **one of the things that we had talked about was**  
12 **RLI's arbitrary denial of allowing us to contest**  
13 **breaches. They were making it more likely that**  
14 **the breaches would have to be paid. So that**  
15 **wasn't -- I just remember there were a couple**  
16 **more.**  
17 Q They didn't -- RLI advised -- they  
18 didn't -- I'm sorry. They didn't deny you -- I  
19 mean, the breaches come when they come, right?  
20 RLI has nothing to do with that, correct?  
21 MS. PETERS: Object to form.  
22 **A Every surety that we've ever had gives**

424

1 **us the right to contest because it doesn't harm**  
2 **anybody, it doesn't harm the surety. The only**  
3 **surety that hasn't given us the right to contest**  
4 **is RLI.**  
5 Q Do you have an --  
6 **A And those -- and those -- contesting**  
7 **them with the local bond unit office is the**  
8 **easiest and most effective way to get them**  
9 **canceled because that's the actual officer that's**  
10 **doing it.**  
11 **Q But you have an understanding under the**  
12 **indemnity agreement RLI has the exclusive right to**  
13 **determine whether to appeal any claim?**  
14 **A Which is why I am exercising and**  
15 **complying with the indemnity agreement even though**  
16 **I think it's bad faith that RLI is withholding**  
17 **those because --**  
18 Q Aren't --  
19 **A I am still -- I am still complying with**  
20 **the indemnity agreement which is why I'm surprised**  
21 **that we're in this litigation.**  
22 Q Aren't you appealing RLI bond breaches



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107 (425 to 428)

425

1 without RLI's authority?  
2 MS. PETERS: Object to form.  
3 **A No. Well, no, the co-obligor is**  
4 **appealing bond breaches based on the co-obligor's**  
5 **authority.**  
6 Q Right. So -- that's Big Marco, right?  
7 **A That's correct.**  
8 **Q And hasn't Nexus requested that Big**  
9 **Marco issue those appeals?**  
10 **A We definitely communicate with Marco.**  
11 **And when the case is that there's a bond breach**  
12 **that should be appealed, we tell him that there**  
13 **are issues and he knows that. And, so, yeah, we**  
14 **have communications about the cases. He**  
15 **understands if there are issues that require an**  
16 **appeal, we work with counsel. We have counsel**  
17 **that works with him.**  
18 Q And you -- right. It's counsel that  
19 you have --  
20 MS. PETERS: Object.  
21 Q -- that works on the appeals, correct?  
22 MS. PETERS: Object.

426

1 **A We provide counsel, that's sure.**  
2 Q Right.  
3 **A Yeah, we have plenty of lawyers.**  
4 Q And isn't it -- and how are those  
5 appeals being paid for?  
6 MS. PETERS: Object to form.  
7 **A What are you talking about?**  
8 Q Who pays for the appeal?  
9 **A The appeal fee?**  
10 Q Uh-huh.  
11 **A We pay the appeal fee.**  
12 Q Okay. And who's paying for the legal  
13 services for the appeal?  
14 **A We -- as I said, we have plenty of**  
15 **lawyers and including them.**  
16 Q Okay. And isn't it -- what percentage,  
17 roughly, of bond breaches are being appealed by  
18 Nexus?  
19 MS. PETERS: Object to form.  
20 **A I don't know.**  
21 Q Would it be true to say that a large  
22 majority of all of the bond breaches are being

427

1 appealed by Nexus?  
2 MS. PETERS: Object to form.  
3 **A I don't know that that would -- I think**  
4 **it would be true given the fact that we appealed a**  
5 **large number of bonds related to the Supreme Court**  
6 **Pereira decision. So I think that if you look at**  
7 **it just a snapshot you'd probably say yes, because**  
8 **there's a significant number of those bonds,**  
9 **almost all of them, were appealed because they**  
10 **didn't have dates on the NTA. But for bonds that**  
11 **do have dates on the NTA, you know, the analysis**  
12 **of whether to appeal or not is different and, you**  
13 **know, we don't appeal.**  
14 Q And didn't RLI advise you that it would  
15 consider appeals on a case-by-case basis if Nexus  
16 or Libre provided documentation?  
17 **A Mr. Sussman told me that he would**  
18 **provide us -- he would provide us a letter to**  
19 **contest because we -- already the co-obligor can**  
20 **appeal. So Marco's ability to appeal is without**  
21 **question.**  
22 **So what we had asked for was a letter**

428

1 **to allow us to contest. And what Mr. Sussman -- I**  
2 **believe it was Mr. Sussman said is that he would**  
3 **give us that letter on a case-by-case basis.**  
4 **We've gone to him. We went to him multiple times**  
5 **to request it. The attorney went to him to**  
6 **request it. Each time he denied it. And we**  
7 **believe those denials were arbitrary and --**  
8 Q How many -- how many times?  
9 **A I don't know.**  
10 MS. PETERS: Object to form.  
11 Q Is it more than -- more than -- more  
12 than three?  
13 MS. PETERS: Object to form.  
14 **A I'm not sure how many times.**  
15 Q Is it in writing, the times that Nexus  
16 approached RLI?  
17 **A At least one of them's in writing.**  
18 Q Okay. Do you know if any other one  
19 other than that one that's in writing?  
20 **A But --**  
21 MS. PETERS: Object to the form.  
22 **A I don't, but that doesn't mean that**

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108 (429 to 432)

429	431
<p>1 <b>there weren't. I know that there's one.</b></p> <p>2 Q Okay. Did you understand that</p> <p>3 Mr. Sussman was requiring a written description of</p> <p>4 the basis of the appeal?</p> <p>5 MS. PETERS: Object to form.</p> <p>6 <b>A Of the basis of the reconsideration</b></p> <p>7 <b>request?</b></p> <p>8 Q Sure.</p> <p>9 <b>A Because that's different. I do believe</b></p> <p>10 <b>that he was asking for the basis of the</b></p> <p>11 <b>reconsideration request. And I do believe that</b></p> <p>12 <b>the email that he was sent that I remember, at</b></p> <p>13 <b>least some of, provided a basis for why we were</b></p> <p>14 <b>trying to reconsider that.</b></p> <p>15 Q Right. But other than the one, you</p> <p>16 don't know of any other instance where Nexus</p> <p>17 provided him that information in writing, correct?</p> <p>18 MS. PETERS: Object to form.</p> <p>19 <b>A Of 20 emails you put in front of me I</b></p> <p>20 <b>recollect one. Just because I don't recollect</b></p> <p>21 <b>them doesn't mean they didn't go out. We have</b></p> <p>22 <b>asked -- why would -- we would definitely want to</b></p>	<p>1 Q No, exactly --</p> <p>2 <b>A I'm going to finish my answer.</b></p> <p>3 Q No. Mr. --</p> <p>4 <b>A I'm going to let you finish.</b></p> <p>5 Q Then we're going to go over seven</p> <p>6 hours. I'm going to tell you that right now.</p> <p>7 <b>A I'm not going to go over --</b></p> <p>8 Q Yes.</p> <p>9 <b>A -- the seven hours. I'm going to leave</b></p> <p>10 <b>at seven hours.</b></p> <p>11 Q Well, I'm telling you --</p> <p>12 <b>A Because I'm telling this isn't fair.</b></p> <p>13 <b>I'm going to --</b></p> <p>14 Q I'm asking you --</p> <p>15 <b>A -- answer the question.</b></p> <p>16 Q -- a question. My question was, other</p> <p>17 than the one do you have any evidence of any other</p> <p>18 requests for --</p> <p>19 <b>A Ms. --</b></p> <p>20 Q -- in writing?</p> <p>21 <b>A Ms. Katsantonis --</b></p> <p>22 <b>Q It's a simple question.</b></p>
430	432
<p>1 <b>be able to do this because see, we have been</b></p> <p>2 <b>paying RLI breaches, right?</b></p> <p>3 Q Okay.</p> <p>4 <b>A So we would rather have fewer breaches</b></p> <p>5 <b>so we would rather be able to contest these bonds</b></p> <p>6 <b>at the bond breach manager level --</b></p> <p>7 Q Mr. Donovan --</p> <p>8 <b>A -- because the bond breach manager is</b></p> <p>9 <b>the person who ultimately decides if the bond</b></p> <p>10 <b>is -- breached.</b></p> <p>11 Q This is --</p> <p>12 <b>A -- if there are --</b></p> <p>13 Q This is exactly --</p> <p>14 <b>A I'm --</b></p> <p>15 Q I'm sorry.</p> <p>16 <b>A I'm trying to finish --</b></p> <p>17 Q But this --</p> <p>18 <b>A -- my answer.</b></p> <p>19 Q No, this is --</p> <p>20 <b>A If there are --</b></p> <p>21 Q -- this is -- the question was --</p> <p>22 <b>A If there are --</b></p>	<p>1 <b>A Ms. Katsantonis, you just asked me the</b></p> <p>2 <b>same question after interrupting my answer to the</b></p> <p>3 <b>question. That is insane. I can't -- I can't</b></p> <p>4 <b>answer questions you tell me to stop --</b></p> <p>5 Q Well, I'm not asking you to --</p> <p>6 <b>A -- answering and you ask me the --</b></p> <p>7 Q Okay, but I'm asking --</p> <p>8 <b>A -- same question again.</b></p> <p>9 Q I need facts, not we would have or why</p> <p>10 it's important but did you or did you not? Do you</p> <p>11 have any evidence of any other requests in</p> <p>12 writing?</p> <p>13 <b>A I told you --</b></p> <p>14 MS. PETERS: Object to form.</p> <p>15 <b>A -- that I remember one specific one. I</b></p> <p>16 <b>told you that that doesn't mean that there aren't</b></p> <p>17 <b>others. I told you --</b></p> <p>18 Q But that sitting here today you don't</p> <p>19 know of any other?</p> <p>20 <b>A And -- and obviously, we have asked</b></p> <p>21 <b>multiple times because we want to not have to pay</b></p> <p>22 <b>breaches, we'd rather those breaches be rescinded.</b></p>



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Conducted on February 26, 2020

109 (433 to 436)

<p>433</p> <p>1 <b>The contesting them with the bond unit manager or</b> 2 <b>the bond officer is the easiest way to get them</b> 3 <b>rescinded because the bond unit officer is the one</b> 4 <b>who handled the case. And so if there's an error,</b> 5 <b>like a person went to the wrong place or they</b> 6 <b>didn't get transferred their case or something,</b> 7 <b>the bond unit officer is the best person to handle</b> 8 <b>it --</b> 9 Q Okay. 10 A -- because they handle the file. 11 Q And I'm taking it that as you don't 12 know of any other written document today other 13 than the one? 14 A So what you're doing is -- 15 MS. PETERS: Object to the form. 16 A -- you're asking me -- listen, I want 17 to understand. You're asking me a question, I'm 18 giving you an answer and then you're restating my 19 answer in a completely separate way to fit your 20 narrative. That's not okay with me. 21 Q I'm just asking you if you are -- 22 you -- you testified --</p>	<p>435</p> <p>1 believe this information is inaccurate? 2 A I don't have any reason to believe it's 3 inaccurate based on the email that you've handed 4 me. 5 Q All right. 6 A I will also say that these have been 7 paid, I'm sure. 8 MS. KATSANTONIS: Mark this document. 9 (Donovan Exhibit 30 marked for 10 identification and attached to the transcript.) 11 MS. PETERS: What was that one marked? 12 THE WITNESS: That was 29. 13 Q I'm going to -- then this is document 14 dated January 14th, 2019. It's, again, from 15 Hazzar Perdomo to Mr. Schneider -- oh, I'm sorry. 16 Yes, and it's sent to Mr. Schneider and also you. 17 Correct? 18 A That is correct. 19 Q And this -- as of January 14th, 2019, 20 Ms. Perdomo is advising that she has gathered the 21 Excel sheets of the breach invoices that are 22 currently due, correct?</p>
<p>434</p> <p>1 A I answered the question. 2 Q -- you're familiar with one. 3 A I testified that I know of one in 4 writing. 5 Q Okay. 6 A I didn't say that there aren't others. 7 (Donovan Exhibit 29 marked for 8 identification and attached to the transcript.) 9 Q Showing you a document dated 10 January 11th, 2019. The bottom of the document is 11 from Hazzar Perdomo to Mr. Schneider, and 12 Mr. Schneider forward that document to you. Do 13 you recognize this document? 14 A I don't. I don't remember the email, 15 but I see it here and I see my email is on it. 16 Q And this document provides that as of 17 January 11th, 2019, that there are 75 RLI invoices 18 with a total of \$894,395.50 that Libre by Nexus 19 has a record that is outstanding. Is that 20 correct? 21 A I do see that. 22 Q Okay. And do you have any reason to</p>	<p>436</p> <p>1 A That's correct. 2 Q And based on her Excel sheet, she's 3 advising that for AIA Surety there are 55 invoices 4 due totaling \$471,269.71, correct? 5 A That's what it says. 6 Q And that as of January 14th, 2019, 7 there are 294 invoices due for bonds issued by 8 FCS, and the total amount is -- owed is 9 3,700,941.93, correct? 10 A No, it looks like there's a 11 typographical error there, but yes, I think it is 12 saying what you had read I would assume. 13 Q Then with regard to RLI it lists the 75 14 invoices totaling \$894,395.50, correct? 15 A That's what it says, yes. 16 Q Okay. And do you have any reason to 17 dispute the accuracy of these numbers? 18 A I don't have any reason to dispute the 19 accuracy of these numbers since they're reported. 20 However, that doesn't mean that these were, you 21 know, paid versus canceled versus rescinded. I 22 don't know what the result of that is. So I can</p>

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110 (437 to 440)

<p>437</p> <p>1 tell you that this email looks correct and I don't</p> <p>2 have any reason to doubt it.</p> <p>3 Q All right. I want to go back and look</p> <p>4 at the indemnity agreement.</p> <p>5 A Okay. You'll have to give me a second.</p> <p>6 MS. PETERS: What's the number, Mike?</p> <p>7 THE WITNESS: I don't know. I still</p> <p>8 haven't found it, to be honest with you.</p> <p>9 Q Do you mind if I look through this</p> <p>10 stack with you?</p> <p>11 A No, please, go right ahead. It's all</p> <p>12 the stuff you handed me anyway. There at the</p> <p>13 bottom you could have figured that. All right,</p> <p>14 I'm here at 330587.</p> <p>15 Q Right. And I know we looked at this</p> <p>16 earlier today.</p> <p>17 MR. KOWALCZUK: Where are you looking</p> <p>18 at? I'm sorry.</p> <p>19 Q Under paragraph -- well, first of all</p> <p>20 looking at the big paragraph before you get to</p> <p>21 definitions.</p> <p>22 A Uh-huh.</p>	<p>439</p> <p>1 right?</p> <p>2 A That's right.</p> <p>3 Q So did you understand that you were to</p> <p>4 pay the surety whenever it requested that you do</p> <p>5 so?</p> <p>6 A Well, no --</p> <p>7 MS. PETERS: Object to form.</p> <p>8 A -- because -- no, because there are</p> <p>9 three subparagraphs. I mean, you can't just --</p> <p>10 indemnitors agree to pay surety upon demand and</p> <p>11 then end it there is open. What does it mean? It</p> <p>12 says there are three sub -- "All losses, costs,</p> <p>13 damages, attorneys' fees and expenses of whatever</p> <p>14 kind or nature or is by reason of or in</p> <p>15 consequence of the surety having executed any bond</p> <p>16 on behalf of the principal" --</p> <p>17 MR. KOWALCZUK: Mike, you have to slow</p> <p>18 down when you're reading.</p> <p>19 MS. KATSANTONIS: Yeah, don't --</p> <p>20 MR. KOWALCZUK: She can't possibly --</p> <p>21 MS. KATSANTONIS: Let's now read --</p> <p>22 maybe not let's read out loud so she doesn't have</p>
<p>438</p> <p>1 Q And the last sentence. It says, "In</p> <p>2 consideration of the execution of any such bonds</p> <p>3 for principal, and as an inducement to such</p> <p>4 execution by surety, the Indemnitors jointly and</p> <p>5 severally agree as follows."</p> <p>6 Right?</p> <p>7 A I see that, yep.</p> <p>8 Q And so you understood that the</p> <p>9 indemnity agreement was being executed in</p> <p>10 consideration for RLI issuing bonds which Nexus</p> <p>11 requested that it issue, correct?</p> <p>12 A Correct.</p> <p>13 MS. PETERS: Object to form.</p> <p>14 Q All right. And with regard to</p> <p>15 paragraph 2, you understood Nexus has an</p> <p>16 obligation to indemnify RLI, correct?</p> <p>17 A I understand that Nexus has a</p> <p>18 responsibility to indemnify RLI related to final</p> <p>19 claims, payment of the bonds that RLI has paid for</p> <p>20 the indemnification, right?</p> <p>21 Q The indemnity agreement 2 a. says,</p> <p>22 "Indemnitor agrees to pay to Surety upon demand,"</p>	<p>440</p> <p>1 to take it all down.</p> <p>2 A I understand but the problem -- here's</p> <p>3 the -- the problem is that's not what -- you know,</p> <p>4 what you read isn't what it says and I don't want</p> <p>5 the record to be confused.</p> <p>6 Q Did you understand that you were to pay</p> <p>7 to the surety upon demand an amount sufficient to</p> <p>8 discharge any claim made against surety on any</p> <p>9 bond?</p> <p>10 A Yes.</p> <p>11 Q And did you understand that the sum</p> <p>12 could be used to pay the claim or held by the</p> <p>13 surety as collateral security against a loss on</p> <p>14 any bond?</p> <p>15 A My understanding is that if I pay a</p> <p>16 bond, that I am required to stand in front of the</p> <p>17 principal. And so I am either required to pay a</p> <p>18 bond when it is a final claim when it is breached</p> <p>19 and I am required to pay that or the surety can</p> <p>20 demand collateral at a time when a breach is</p> <p>21 issued.</p> <p>22 Q Does the surety --</p>

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111 (441 to 444)

<p>441</p> <p>1 MS. PETERS: Object to the form.</p> <p>2 <b>A So you have the -- you have the -- you</b></p> <p>3 <b>have the ability to demand that I indemnify you,</b></p> <p>4 <b>that I pay something that you paid. You have the</b></p> <p>5 <b>ability to say that I have to exonerate you based</b></p> <p>6 <b>on a breach. So if there is a breach and you say</b></p> <p>7 <b>I want collateral for that pending whatever</b></p> <p>8 <b>happens, then I have to pay that collateral.</b></p> <p>9 <b>That's my understanding.</b></p> <p>10 Q And nowhere in the indemnity agreement</p> <p>11 does it provide that you have a choice to either</p> <p>12 pay collateral or indemnify the surety, right?</p> <p>13 MS. PETERS: Object to form.</p> <p>14 Q The agreement doesn't provide you with</p> <p>15 that choice, correct?</p> <p>16 MS. PETERS: Object to the form.</p> <p>17 <b>A Oh, I think it's requiring -- these are</b></p> <p>18 <b>responsibilities as I read them, right? So these</b></p> <p>19 <b>are responsibilities --</b></p> <p>20 Q Obligations.</p> <p>21 MS. PETERS: Object to form.</p> <p>22 <b>A I believe that I've met my obligations.</b></p>	<p>443</p> <p>1 <b>A It does provide obligations and I think</b></p> <p>2 <b>we've met those obligations.</b></p> <p>3 Q All right. And one of those</p> <p>4 obligations is to pay an amount sufficient to</p> <p>5 discharge any claim made against the bond,</p> <p>6 correct?</p> <p>7 <b>A Where are you?</b></p> <p>8 Q 2A little 2.</p> <p>9 <b>A Yep, I see that.</b></p> <p>10 Q Okay. Did you understand that that was</p> <p>11 an obligation of Nexus?</p> <p>12 <b>A Yes. That I would have to pay an</b></p> <p>13 <b>amount sufficient to discharge a claim which is a</b></p> <p>14 <b>breach.</b></p> <p>15 Q Right. And any -- that you would have</p> <p>16 the obligation to pay any claim made against the</p> <p>17 bond, correct?</p> <p>18 MS. PETERS: Object to form.</p> <p>19 <b>A Right. A breach. Yes.</b></p> <p>20 Q Okay. And did you understand under</p> <p>21 2 --</p> <p>22 <b>A And I think it's important to</b></p>
<p>442</p> <p>1 Q That's not what I'm asking you. I'm</p> <p>2 saying the indemnity agreement doesn't provide you</p> <p>3 with a choice of whether to exonerate the surety</p> <p>4 and pay collateral -- or sorry, let me start over.</p> <p>5 The indemnity agreement doesn't provide</p> <p>6 you with the choice to either pay collateral or</p> <p>7 indemnify the surety, right?</p> <p>8 MS. PETERS: Object to form.</p> <p>9 <b>A Well, both provisions are in the</b></p> <p>10 <b>contract. I'm not really sure what -- maybe I'm</b></p> <p>11 <b>not understanding what you're asking me.</b></p> <p>12 MR. WILLIAMS: Yeah.</p> <p>13 Q Well, you keep asserting that you have</p> <p>14 some sort of choice.</p> <p>15 MR. HARRIS: Mr. Williams, please, no</p> <p>16 comments.</p> <p>17 MR. WILLIAMS: Sorry.</p> <p>18 Q The indemnity agreement doesn't provide</p> <p>19 you with choices, right, it provides you with what</p> <p>20 your obligations are to the surety upon demand,</p> <p>21 correct?</p> <p>22 MS. PETERS: Object to form.</p>	<p>444</p> <p>1 <b>understand --</b></p> <p>2 MS. PETERS: Object to form.</p> <p>3 <b>A -- that it's a final claim.</b></p> <p>4 MS. PETERS: Object to form.</p> <p>5 <b>A A final determination of the breach.</b></p> <p>6 <b>That's important.</b></p> <p>7 Q It doesn't say a final determination of</p> <p>8 a breach, does it?</p> <p>9 <b>A It says claim and claim is defined in</b></p> <p>10 <b>CFR in the context of immigration bond as a breach</b></p> <p>11 <b>with a final determination.</b></p> <p>12 Q The CFR does not incorporate into the</p> <p>13 indemnity agreement, correct?</p> <p>14 MS. PETERS: Object to form.</p> <p>15 <b>A It's plain language.</b></p> <p>16 Q There's a section of definitions that</p> <p>17 claim's not defined in that definition section,</p> <p>18 right?</p> <p>19 MS. PETERS: Objection.</p> <p>20 <b>A Right, which is why I assume that we</b></p> <p>21 <b>just use the legal definition as it relates to the</b></p> <p>22 <b>actual business that we're writing.</b></p>



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112 (445 to 448)

<p>445</p> <p>1 Q Well, it doesn't --</p> <p>2 A I would have -- I'm sorry,</p> <p>3 Ms. Katsantonis, I would assume that if you wanted</p> <p>4 claim to mean something different than it reads in</p> <p>5 the plain language of the statute you would have</p> <p>6 put it in here under definitions. Since you</p> <p>7 didn't, I assume claim means claim.</p> <p>8 Q So claim means claim pursuant to the</p> <p>9 definition of claim, right?</p> <p>10 MS. PETERS: Object to form. He</p> <p>11 further defined it as the CFR.</p> <p>12 A In the CFR related to the issuance of</p> <p>13 immigration bonds, very specifically.</p> <p>14 Q Isn't a claim a demand or request for</p> <p>15 something that is considered due?</p> <p>16 A Black's Law.</p> <p>17 MS. PETERS: Objection.</p> <p>18 A So, yes, going further specifically as</p> <p>19 it relates to the issue of immigration bonds, the</p> <p>20 CFR specifically identifies a claim --</p> <p>21 Q So CFR --</p> <p>22 A -- as a bond breach with no pending</p>	<p>447</p> <p>1 law enforcement interviews and walk right out the</p> <p>2 door. How can that be a claim on the bond? It</p> <p>3 doesn't make sense. I mean until we know what</p> <p>4 happened, until that person is breached. Until</p> <p>5 there's an index. Until we have --</p> <p>6 Q There's no -- you didn't include any</p> <p>7 language.</p> <p>8 MS. PETERS: Object to form. You just</p> <p>9 interrupted him again, Ms. Katsantonis.</p> <p>10 MS. KATSANTONIS: I don't need you to</p> <p>11 raise your voice, Ms. Donne Peters. We're having</p> <p>12 a --</p> <p>13 MS. PETERS: It's been all long and</p> <p>14 you've interrupted him --</p> <p>15 MS. KATSANTONIS: It's not proper,</p> <p>16 okay.</p> <p>17 MS. PETERS: What you're doing is an</p> <p>18 improper examination. I would ask you to stop</p> <p>19 interrupting him.</p> <p>20 MS. KATSANTONIS: Okay, Ms. Donne</p> <p>21 Peters. Let's move on.</p> <p>22 Q Under the indemnity agreement you did</p>
<p>446</p> <p>1 appeal. That's what it says.</p> <p>2 Q Does the notice to deliver have a due</p> <p>3 date?</p> <p>4 MS. PETERS: Object to form.</p> <p>5 Q For delivery?</p> <p>6 A Yes, deliver would have a delivery</p> <p>7 date.</p> <p>8 Q Okay. And would that provide for a</p> <p>9 claim under the bond?</p> <p>10 A I don't believe so.</p> <p>11 MS. PETERS: Object to form.</p> <p>12 Q It's your testimony that you don't</p> <p>13 believe a notice to deliver is a claim under the</p> <p>14 bond?</p> <p>15 MS. PETERS: Object to form.</p> <p>16 A I understand that that's when your</p> <p>17 expert thinks that it starts. I don't believe</p> <p>18 that because there's nothing -- first of all,</p> <p>19 there's -- all of those aren't even removal</p> <p>20 orders.</p> <p>21 Q Okay.</p> <p>22 A So some of those are people who have</p>	<p>448</p> <p>1 not -- there are no revisions to the indemnity</p> <p>2 agreement, there's no qualifications of what a</p> <p>3 claim is or references to the CFR, correct?</p> <p>4 A That's why I assumed the legal</p> <p>5 definition of claim as it relates to immigration</p> <p>6 bonds would be the one that we would use because</p> <p>7 if you were going to use a special definition that</p> <p>8 wasn't part of the legal definition of the claim</p> <p>9 related to immigration bonds, I would have assumed</p> <p>10 that you would have identified in the definition</p> <p>11 section.</p> <p>12 Q Or you would have identified it in</p> <p>13 the --</p> <p>14 A Well, no, I would have assumed it was</p> <p>15 part -- it was consistent with the law and what</p> <p>16 the CFR says. That's what I assumed and that's</p> <p>17 because you didn't identify it as something</p> <p>18 different.</p> <p>19 Q Okay. All right. And regarding claims</p> <p>20 against a surety, did you understand under</p> <p>21 paragraph 2B little 1 that the surety has the</p> <p>22 exclusive right for itself and the indemnitor to</p>



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113 (449 to 452)

<p>449</p> <p>1 determine whether any claim or suit upon a bond</p> <p>2 shall, on the basis of liability, expediency, or</p> <p>3 otherwise, be paid, compromised, defended or</p> <p>4 appealed?</p> <p>5 MS. PETERS: Object to form.</p> <p>6 A I see that, yeah.</p> <p>7 Q Did you understand that term?</p> <p>8 A I think I do understand that, yeah.</p> <p>9 Q And so you understood that at least as</p> <p>10 between -- let me strike that.</p> <p>11 You understood that the surety had the</p> <p>12 right for itself and the indemintors to make a</p> <p>13 determination whether to appeal any bond breach,</p> <p>14 correct?</p> <p>15 MS. PETERS: Object to form.</p> <p>16 A The surety has a right to determine</p> <p>17 whether the surety is going to appeal the bond</p> <p>18 beach. But the co-obligor has an equal right to</p> <p>19 appeal the bond breach.</p> <p>20 Q But I'm talking about for the</p> <p>21 indemnitor. The surety had the right as to the</p> <p>22 indemnitor to make a determination whether or not</p>	<p>451</p> <p>1 see that but you understand that that's a term,</p> <p>2 correct, that an itemized statement is prima facie</p> <p>3 evidence of the extent of your liability?</p> <p>4 MS. PETERS: Object to the form.</p> <p>5 A So I see that here. I think it. But</p> <p>6 reading it without the first sentence to the</p> <p>7 paragraph is I think disingenuous. It's talking</p> <p>8 about the surety's rights related to a claim. As</p> <p>9 I testified, the co-obligor has -- is jointly and</p> <p>10 severally liable and has equal rights to file an</p> <p>11 appeal. So I would say that this -- certainly the</p> <p>12 surety has rights. The co-obligor also has rights</p> <p>13 related to the bond.</p> <p>14 Q Well, you're not here on behalf of the</p> <p>15 co-obligor, are you?</p> <p>16 A Of course not.</p> <p>17 Q Right. So it's irrelevant what rights</p> <p>18 a co-obligor may have as between RLI and Nexus,</p> <p>19 correct?</p> <p>20 A It's not irrelevant, Ms. Katsantonis,</p> <p>21 when a woman like the one you put in front of me</p> <p>22 earlier that went to the wrong office not because</p>
<p>450</p> <p>1 to appeal a bond breach?</p> <p>2 MS. PETERS: Object to form.</p> <p>3 A Right. And the surety can make that</p> <p>4 determination. The co-obligor hasn't -- is</p> <p>5 jointly and severally liable to the government and</p> <p>6 has that right independent of the surety. And</p> <p>7 it's in the fact. Read it on the I-352. It says</p> <p>8 jointly and severally liable.</p> <p>9 Q Do you understand under 2B little 3</p> <p>10 that in any claim or suit hereunder an itemized</p> <p>11 statement of the aforesaid losses and expenses</p> <p>12 sworn to by an officer of the surety shall be</p> <p>13 prima facie evidence of the fact and extent of</p> <p>14 liability hereunder of the indemnitors.</p> <p>15 MS. PETERS: Object to form.</p> <p>16 A I want to read this because you started</p> <p>17 halfway into the paragraph. So let me just --</p> <p>18 it's little 3, right?</p> <p>19 Q Right.</p> <p>20 A Okay. I do see that, yeah.</p> <p>21 Q Okay. And looking at paragraph 3,</p> <p>22 general provisions. So I'm sorry, you said you</p>	<p>452</p> <p>1 she went to the wrong office but because she was</p> <p>2 directed to go to -- I'm going to finish. She was</p> <p>3 directed to go to a different office. This is a</p> <p>4 real person, Vivian, with a child. She's</p> <p>5 [REDACTED] This is a real human being, not a</p> <p>6 building, not a widget. It's a human being, okay?</p> <p>7 That human being has human rights.</p> <p>8 The co-obligor is jointly and severally</p> <p>9 reliable for the bond. If the co-obligor wants to</p> <p>10 appeal, great. If there's a reason, and there was</p> <p>11 in that case, I mean that's exactly why the appeal</p> <p>12 rights are there.</p> <p>13 Q And this human being that you were</p> <p>14 referring to, she was delivered to custody by</p> <p>15 Nexus, right?</p> <p>16 MS. PETERS: Object to form.</p> <p>17 A No. We don't arrest people. We</p> <p>18 will --</p> <p>19 Q You delivered her.</p> <p>20 MS. PETERS: Object to form --</p> <p>21 A We attend with them. We don't --</p> <p>22 deliver --</p>

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Conducted on February 26, 2020

114 (453 to 456)

<p>453</p> <p>1 Q Right.</p> <p>2 A -- means that you pick a person up and</p> <p>3 take them --</p> <p>4 Q You escorted -- I'm sorry. You</p> <p>5 escorted her to custody, correct?</p> <p>6 MS. PETERS: Object to form.</p> <p>7 A No, that's absolutely incorrect. We</p> <p>8 provide transportation services to meetings. So</p> <p>9 it's a different thing to -- when you say</p> <p>10 escorting to custody, you're implying that we pick</p> <p>11 the person up in handcuffs or something like that.</p> <p>12 That's absolutely not true.</p> <p>13 Q I'm not implying anything. I'm just</p> <p>14 saying you escorted --</p> <p>15 A I think the implication is there based</p> <p>16 on the words. I'm just explaining that that's not</p> <p>17 what it is.</p> <p>18 Q Well, you know what happens, I don't.</p> <p>19 So I'm just trying to say you escorted --</p> <p>20 A Hence, the reason I'm providing the</p> <p>21 detail because I want to make sure --</p> <p>22 Q You transported --</p>	<p>455</p> <p>1 A -- it's a wonderful thing.</p> <p>2 Q Thank you. I'm looking at paragraph 3</p> <p>3 now of the agreement. General provisions and I'm</p> <p>4 looking at paragraph 3B.</p> <p>5 You understood that the surety had the</p> <p>6 right at its option and in its sole discretion to</p> <p>7 decline the execution of any bond; is that</p> <p>8 correct?</p> <p>9 A Uh-huh.</p> <p>10 Q All right. So you understood that RLI</p> <p>11 could at any time stop writing bonds on behalf of</p> <p>12 Nexus, correct?</p> <p>13 A Oh, sure. That's why we didn't sue</p> <p>14 them when they did. We entered an agreement of</p> <p>15 course that said that we could do that instead of</p> <p>16 paying collateral. So we did that.</p> <p>17 Q And in fact --</p> <p>18 MS. PETERS: Eight minutes.</p> <p>19 THE VIDEOGRAPHER: 18.</p> <p>20 MS. PETERS: 18 minutes.</p> <p>21 Q And in fact RLI could stop writing</p> <p>22 bonds at any time. It didn't need Nexus to find</p>
<p>454</p> <p>1 A -- my answer isn't misunderstood.</p> <p>2 Q You transported her --</p> <p>3 A I don't know that we transported her.</p> <p>4 Q -- and responded to the delivery.</p> <p>5 A I don't know because as I told you</p> <p>6 before I didn't read that file. I'm referencing</p> <p>7 the email that you put in --</p> <p>8 Q All right.</p> <p>9 A -- front of me. I'm pointing out that</p> <p>10 these are real people with real lives and they</p> <p>11 matter. And it should matter to RLI too, and it</p> <p>12 doesn't. And I understand that which is why the</p> <p>13 co-obligor cares to appeal because you'd rather</p> <p>14 pay -- RLI would rather pay the bond and screw</p> <p>15 that person's ability to be able to get their case</p> <p>16 reopened to be able to get relief.</p> <p>17 Q All right.</p> <p>18 A I don't certainly agree with RLI in</p> <p>19 that case. I think that people matter. And I am</p> <p>20 heartened that Marco thinks that people matter and</p> <p>21 he's willing to appeal. I think --</p> <p>22 Q Well, thank you.</p>	<p>456</p> <p>1 another surety to transfer or to start writing</p> <p>2 bonds for it, right?</p> <p>3 MS. PETERS: Object to form.</p> <p>4 A You know, that's a really good point.</p> <p>5 That's right. Which is why it's telling that RLI</p> <p>6 was willing to continue to write this business</p> <p>7 even though the proverbial roof was on fire as we</p> <p>8 sit here today. We're sitting here today talking</p> <p>9 about how freaked out RLI was but yet they</p> <p>10 continue to write business. And you're right,</p> <p>11 they could have stopped at any time. They could</p> <p>12 have but didn't. You know why? Because they were</p> <p>13 continuing to receive premium and they understood</p> <p>14 that this roof wasn't on fire.</p> <p>15 Q Didn't they --</p> <p>16 A The roof was only on fire after they</p> <p>17 stopped --</p> <p>18 Q Didn't they give you --</p> <p>19 A -- getting premium every day.</p> <p>20 Q Didn't they give you notice?</p> <p>21 A You're interrupting me again and --</p> <p>22 Q Well, I know --</p>

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115 (457 to 460)

<p>457</p> <p>1 A -- I can't answer the question --</p> <p>2 Q But, Mr. Donovan --</p> <p>3 A -- if you don't provide me --</p> <p>4 MS. PETERS: Object to the form.</p> <p>5 A -- an opportunity to answer.</p> <p>6 Q I thought you were done.</p> <p>7 A I wasn't.</p> <p>8 Q I thought you were done.</p> <p>9 A You'll know I'm not done when I'm</p> <p>10 continuing to talk, Vivian. I was continuing to</p> <p>11 talk. You couldn't possibly have thought I was</p> <p>12 done.</p> <p>13 Q Go ahead.</p> <p>14 A I'm done now.</p> <p>15 Q Okay. So isn't it true that at least</p> <p>16 as of November -- remember we were looking at that</p> <p>17 email. At least as of November of 2016, RLI gave</p> <p>18 you advance notice and advised that it was going</p> <p>19 to stop issuing bonds as of February 2017, right?</p> <p>20 A I believe the email is on December 7th,</p> <p>21 but, yes, it was a December email.</p> <p>22 Q But it was referencing a discussion</p>	<p>459</p> <p>1 Q All right. Looking at paragraph 3C,</p> <p>2 provides until surety has been furnished with</p> <p>3 conclusive evidence of its discharge without loss</p> <p>4 from any bonds and until surety has been otherwise</p> <p>5 fully indemnified, surety shall have the right of</p> <p>6 access to books, records, and accounts.</p> <p>7 Did you understand that surety had this</p> <p>8 right to access Nexus' books and records?</p> <p>9 A To be honest.</p> <p>10 MS. PETERS: Object to form.</p> <p>11 A To be honest with you, Ms. Katsantonis,</p> <p>12 I was surprised to understand what the broad</p> <p>13 definition of books and records meant. I was</p> <p>14 schooled on that definition during our multiple</p> <p>15 motions for injunctive relief and I do now</p> <p>16 understand that to be a broader term than I</p> <p>17 understood it when I signed it.</p> <p>18 Q Okay. And looking at --</p> <p>19 A But we've complied. A millions pages</p> <p>20 of documents and, you know, anything else you</p> <p>21 want, just let me know.</p> <p>22 Q Okay. And paragraph 3D provides, and</p>
<p>458</p> <p>1 weeks earlier. You may recall that.</p> <p>2 A I don't recall, but, yeah, maybe.</p> <p>3 Q Okay. So RLI did not need you or</p> <p>4 require you to get another surety to start writing</p> <p>5 bonds, correct?</p> <p>6 A Well, to exercise their right to stop</p> <p>7 issuing bonds.</p> <p>8 Q Right?</p> <p>9 A They certainly wouldn't have had to do</p> <p>10 that.</p> <p>11 Q Exactly. Isn't it indicative of RLI's</p> <p>12 desire to work with you to provide you advance</p> <p>13 notice that it was going to stop issuing bonds on</p> <p>14 behalf of Nexus?</p> <p>15 MS. PETERS: Object to form.</p> <p>16 A No. I don't think so. I think RLI's</p> <p>17 interest would have been served and Nexus</p> <p>18 continuing to be financially healthy. I think RLI</p> <p>19 was shrewd enough to understand that and</p> <p>20 understood that having a new surety partner would</p> <p>21 be an important aspect of that equation. So</p> <p>22 that's what I think but that's just conjecture.</p>	<p>460</p> <p>1 I'm looking at the second sentence, "Indemnitors</p> <p>2 will, upon the request of surety, procure the</p> <p>3 discharge of surety from any bond and all</p> <p>4 liability by reason thereof."</p> <p>5 Do you understand that?</p> <p>6 A I do.</p> <p>7 MS. PETERS: Object to form.</p> <p>8 Q Okay.</p> <p>9 A But there's no way that that -- you</p> <p>10 can't -- you can't read that independently of</p> <p>11 section 2. It clearly is talking about bonds</p> <p>12 where there's a claim. Because you've hit -- I</p> <p>13 mean, there are specific indemnity provisions and</p> <p>14 then there are general provisions. The general</p> <p>15 provisions are obviously referencing the specific</p> <p>16 provisions. I mean that's certainly how I read it</p> <p>17 and certainly how I understood Dave Sandoz to mean</p> <p>18 it.</p> <p>19 Q What do you mean Dave Sandoz to mean</p> <p>20 it?</p> <p>21 A Well, he's the person that I signed</p> <p>22 this agreement with. He's the person I discussed</p>



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116 (461 to 464)

<p>461</p> <p>1 this with.</p> <p>2 Q RLI doesn't sign this agreement, do</p> <p>3 they?</p> <p>4 MS. PETERS: Object to form.</p> <p>5 A I'm sorry?</p> <p>6 Q RLI doesn't sign this agreement, does</p> <p>7 it?</p> <p>8 MS. PETERS: Object to form.</p> <p>9 A It's an agreement to RLI. We would</p> <p>10 have discussed it significantly before we signed</p> <p>11 it.</p> <p>12 Q It sets forth your obligations, right?</p> <p>13 A I'm sorry, I didn't say that Dave</p> <p>14 Sandoz signed it. I said that we went over it</p> <p>15 with Dave Sandoz. That's what I said.</p> <p>16 Q And the agreement sets forth your</p> <p>17 obligations, Nexus' obligations, right?</p> <p>18 A Sure.</p> <p>19 Q Right?</p> <p>20 A It's a general indemnity agreement,</p> <p>21 yeah.</p> <p>22 Q It doesn't impose any obligations upon</p>	<p>463</p> <p>1 you come up with anything with regard to the</p> <p>2 obligation of the surety?</p> <p>3 A Can you -- what was the specific</p> <p>4 question again? You wanted to know if there were</p> <p>5 obligations of the surety under this agreement?</p> <p>6 Q Right.</p> <p>7 A So everything about this agreement</p> <p>8 relates to bonds that the surety posted. So I'm</p> <p>9 afraid I don't really understand. Everything</p> <p>10 about this agreement relates to responsibilities</p> <p>11 that we have related to bonds that the surety</p> <p>12 posts. So we have no responsibilities to the</p> <p>13 surety if they weren't posting the bonds. It</p> <p>14 doesn't mean that they have a future requirement</p> <p>15 to continue posting bonds but they posed bonds --</p> <p>16 Q Right.</p> <p>17 A -- under the agreement.</p> <p>18 Q Can you point to any provision in this</p> <p>19 agreement that imposes an obligation on RLI?</p> <p>20 A I think I just answered the question.</p> <p>21 What I'm saying to you is that RLI is issuing</p> <p>22 bonds that are the subject of this agreement.</p>
<p>462</p> <p>1 the surety, does it?</p> <p>2 MS. PETERS: Object to form.</p> <p>3 A You know, I'm not sure that I agree</p> <p>4 with that. Because there would be no general</p> <p>5 indemnity agreement if the surety wasn't -- if</p> <p>6 there wasn't a partnership, if the surety wasn't</p> <p>7 executing bonds. It certainly gives the surety</p> <p>8 the right to stop issuing bonds. But, you know,</p> <p>9 I'm going to refrain from saying that, you know,</p> <p>10 final --</p> <p>11 Q Can you point to an obligation in here</p> <p>12 that the surety has in the agreement?</p> <p>13 MS. PETERS: Object to form.</p> <p>14 A Give me a minute to read it again.</p> <p>15 Q Sure.</p> <p>16 A Okay.</p> <p>17 MS. PETERS: And I'm going to object to</p> <p>18 the form of the question to the extent that it</p> <p>19 seeks a legal conclusion.</p> <p>20 A Okay.</p> <p>21 Q Mr. Donovan, you just spent several</p> <p>22 minutes reviewing the indemnity agreement. Did</p>	<p>464</p> <p>1 There would be no agreement if RLI wasn't issuing</p> <p>2 the bonds.</p> <p>3 Q Right. And you're executing the</p> <p>4 agreement as inducement for RLI to issue bonds,</p> <p>5 right?</p> <p>6 MS. PETERS: Object to the form.</p> <p>7 A We in the agreement are agreeing to</p> <p>8 stand in front of the principal for RLI.</p> <p>9 Q Right.</p> <p>10 A So yeah, that obviously is important to</p> <p>11 RLI in the determination to issue the bonds.</p> <p>12 Q Right. So RLI issues the bonds and you</p> <p>13 undertake these obligations set forth in the</p> <p>14 indemnity agreement, correct?</p> <p>15 A Correct.</p> <p>16 MS. PETERS: Object to form.</p> <p>17 Q And there's -- and there's no other</p> <p>18 provision in this indemnity agreement that</p> <p>19 provides --</p> <p>20 MS. PETERS: Object to form.</p> <p>21 Q Any other --</p> <p>22 MR. HARRIS: She hasn't got her</p>



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117 (465 to 468)

465

1 question out.  
2 MS. KATSANTONIS: I know. How can you  
3 object to form when I say and there's no -- I  
4 haven't even finished my question.  
5 MS. PETERS: You know what, I just  
6 interrupted you and I apologize.  
7 MS. KATSANTONIS: Okay.  
8 Q And there is not any other provision in  
9 this agreement that provides any other obligation  
10 upon RLI, correct?  
11 A **Oh, I disagree.**  
12 MS. PETERS: Object to form.  
13 A **I mean, the collateral agreement is not**  
14 **only signed by Bart Davis but there are**  
15 **provisions. I mean, these agreements are**  
16 **together. We signed these agreements together.**  
17 **They operate together. So I don't think we --**  
18 Q Let's just take the indemnity  
19 agreement.  
20 A **Well, I don't think we can do that.**  
21 **Like, I don't think you can just say the general**  
22 **indemnity agreement lies --**

466

1 Q You just spent --  
2 A **-- on its own.**  
3 Q You just spent several minutes reading  
4 the indemnity agreement.  
5 A **That's true --**  
6 Q And my question is --  
7 A **I didn't --**  
8 Q -- based on the indemnity agreement do  
9 you see any provision --  
10 A **I can read the rest of this --**  
11 Q -- that provides --  
12 A **-- and answer your question**  
13 **specifically. These agreements go together. You**  
14 **sent me an -- you showed me an email earlier where**  
15 **I had --**  
16 Q I'm going to allow you --  
17 A **-- was sent these agreements together.**  
18 **In fact, this is the email you sent earlier with**  
19 **these two agreements stapled together.**  
20 Q I'm going to --  
21 A **You can't honestly tell me that they're**  
22 **not together.**

467

1 Q I'm going to allow you to take the  
2 collateral agreement out for a minute, so you can  
3 save that. But in the indemnity agreement you  
4 just read, is there any provision in that  
5 agreement that provides for any obligation upon  
6 RLI?  
7 MS. PETERS: Object to form.  
8 A **So you're asking me if half of the**  
9 **agreement? If you read the whole agreement**  
10 **together --**  
11 Q Okay.  
12 A **-- absolutely.**  
13 Q I'm asking you as to this indemnity  
14 agreement. You can't point to anything, correct?  
15 MS. PETERS: Object to the form.  
16 A **I can point to this entire agreement**  
17 **and the signature from Bart Davis on the**  
18 **agreement.**  
19 Q Okay. Now, looking at -- as far as the  
20 first three pages of -- this exhibit.  
21 MS. PETERS: Which exhibit are you  
22 talking about?

468

1 MS. KATSANTONIS: Just hold on.  
2 A **Yeah, I don't know what you're talking**  
3 **about, Vivian.**  
4 Q All right. In looking at the  
5 commercial surety general indemnity agreement and  
6 on your exhibit it's pages 0048914 and 1 of 3, 2  
7 of 3, and 3 of 3. Those three pages you cannot  
8 identify any provision that imposes an obligation  
9 upon RLI; is that correct?  
10 MS. PETERS: Object to form.  
11 A **I disagree with the premise of the**  
12 **question. The agreements aren't independent of**  
13 **one another. You presented an email where you**  
14 **showed me that RLI -- I mean, let's go look at the**  
15 **email. The email said we require these things.**  
16 **And it included --**  
17 Q Okay. You can't point to any  
18 provision --  
19 A **I just did.**  
20 Q -- in the first three pages?  
21 A **I pointed to the signature --**  
22 MS. PETERS: Object to form.

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118 (469 to 472)

<p>469</p> <p>1 MR. WILLIAMS: Excuse me, can I ask a</p> <p>2 question?</p> <p>3 Q No, you cannot, Mr. Williams. We can</p> <p>4 talk after we're off the record.</p> <p>5 MR. WILLIAMS: Okay.</p> <p>6 Q Let me ask you another question.</p> <p>7 Looking at paragraph 3F, liability of indemnitors.</p> <p>8 Do you see it says, "Liability of indemnitor shall</p> <p>9 not be affected by," and I'm looking at little 2,</p> <p>10 "any claim that other indemnity or security was to</p> <p>11 have been obtained."</p> <p>12 Do you see that?</p> <p>13 MS. PETERS: Object to form.</p> <p>14 A Sure, I see -- I see where --</p> <p>15 Q Do you understand that the liability of</p> <p>16 Nexus would not be affected by any claim that</p> <p>17 security was to have been obtained?</p> <p>18 MS. PETERS: Object to form.</p> <p>19 A What do you mean?</p> <p>20 Q Did you understand herein that the</p> <p>21 liability of Nexus would not be affected by any</p> <p>22 assertion that security was to have been obtained?</p>	<p>471</p> <p>1 do with me. Or if they returned or changed</p> <p>2 collateral. I will agree with you that our</p> <p>3 liability under the agreement is --</p> <p>4 Q Nexus' liability?</p> <p>5 A -- is set forth. Our. I don't work</p> <p>6 for RLI. Yes, Nexus.</p> <p>7 Q Okay. Nexus' liability is not affected</p> <p>8 by the return or exchange of any collateral,</p> <p>9 correct?</p> <p>10 MS. PETERS: Object to the form. He's</p> <p>11 asked -- he's asked and answered that.</p> <p>12 A Yeah, I think that means if I pay</p> <p>13 collateral I'm still responsible for the -- if</p> <p>14 there's a claim that I'm still responsible for</p> <p>15 that even if --</p> <p>16 Q Or if any collateral is returned to you</p> <p>17 the liability of Nexus is not affected, correct?</p> <p>18 MS. PETERS: Object to form.</p> <p>19 A When RLI agreed to return all of our</p> <p>20 collateral at the end of the year I would have</p> <p>21 still been expected to be responsible and stand as</p> <p>22 indemnity, yes.</p>
<p>470</p> <p>1 MS. PETERS: Objection.</p> <p>2 Q But was not.</p> <p>3 MS. PETERS: Object to form.</p> <p>4 A But wouldn't that be related to RLI</p> <p>5 getting additional security or an indemnitor? Why</p> <p>6 would that have anything to do with me? Like, I</p> <p>7 don't even understand what you're asking me.</p> <p>8 Q Did you understand that the liability of</p> <p>9 Nexus would not be affected by the return or</p> <p>10 exchange of any collateral that may have been</p> <p>11 obtained?</p> <p>12 MS. PETERS: Objection to the form of</p> <p>13 the question.</p> <p>14 A I believe that our liability wouldn't</p> <p>15 change if RLI got another indemnitor.</p> <p>16 Q They're talking about the liability of</p> <p>17 you, the indemnitor.</p> <p>18 A I'm sorry.</p> <p>19 MS. PETERS: Object to form.</p> <p>20 A The liability of Nexus to RLI would not</p> <p>21 necessarily change if RLI got a second indemnitor</p> <p>22 which is what little 2 means which has nothing to</p>	<p>472</p> <p>1 Q Right. And you'd still be responsible</p> <p>2 under the terms of this agreement, correct?</p> <p>3 A And we have been responsible and we</p> <p>4 have complied which is why this litigation is</p> <p>5 incredibly surprising and depressing.</p> <p>6 Q Okay. And you -- and when we were</p> <p>7 looking at the March 3rd demand and the March 10th</p> <p>8 demand for collateral, you did not respond to</p> <p>9 RLI's demands prior to March 13th, when they</p> <p>10 issued you a letter demanding collateral, right?</p> <p>11 MS. PETERS: Object to form.</p> <p>12 A March 13th? I believe it was</p> <p>13 March 10th. Either way, March 3rd, March 6th,</p> <p>14 it's a Friday and a Monday, as I previously</p> <p>15 testified, that's a -- I mean, it's basically the</p> <p>16 day before and the day after. You're basically</p> <p>17 saying he sent me an email on Monday -- Friday and</p> <p>18 Monday. I mean --</p> <p>19 Q Right.</p> <p>20 A -- the chances of me reading Friday's</p> <p>21 before Monday's are slim to be honest with you.</p> <p>22 Q Mr. Sussman requested a response by</p>

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119 (473 to 476)

<p>473</p> <p>1 March 10th in his March 3rd and March 6th 2 communications with you, correct? 3 <b>A I can appreciate that. But, you know,</b> 4 <b>I apologize that I wasn't able to get back to</b> 5 <b>Mr. Sussman in a couple of days. I apologized</b> 6 <b>that the time period that he demanded me to</b> 7 <b>respond to him was so short that I wasn't able to</b> 8 <b>get back to him. If I didn't get back to him.</b> 9 <b>Again, I don't recollect those conversations.</b> 10 Q You understood -- you knew that 11 those -- that that demand was outstanding but you 12 just chose not to respond to Mr. Sussman, correct? 13 MS. PETERS: Object to form. 14 <b>A No. You have to understand,</b> 15 <b>Ms. Katsantonis, I was told by RLI in December</b> 16 <b>that they needed \$1.25 million in collateral but</b> 17 <b>that if I found a new surety by February 28th,</b> 18 <b>18 2017 that I wouldn't have to pay that collateral.</b> 19 Q Did you understand that nobody from RLI 20 had been communicating -- 21 MR. KOWALCZUK: Seven hours is up. 22 MS. PETERS: You're done.</p>	<p>475</p> <p>1 ACKNOWLEDGMENT OF DEPONENT 2 I, MICHEAL PAUL DONOVAN, do hereby 3 acknowledge that I have read and examined the 4 foregoing testimony, and the same is a true, 5 correct and complete transcription of the 6 testimony given by me and any corrections appear 7 on the attached Errata sheet signed by me. 8 9 _____ 10 (DATE) (SIGNATURE) 11 12 13 14 15 16 17 18 19 20 21 22</p>
<p>474</p> <p>1 MR. KOWALCZUK: Thank you. 2 MS. PETERS: Thank you. 3 THE WITNESS: Great. 4 MS. KATSANTONIS: Okay. So you're not 5 going to let me finish my question? 6 MS. PETERS: No, I'm not. 7 MS. KATSANTONIS: Okay. I just want to 8 put that on the record. 9 MS. PETERS: Go right ahead. 10 MS. KATSANTONIS: Okay. 11 THE VIDEOGRAPHER: We are now going off 12 the record at 21:44. 13 14 15 16 17 18 19 20 21 22</p>	<p>476</p> <p>1 CERTIFICATE OF REPORTER - NOTARY PUBLIC 2 I, JUDITH E. BELLINGER, RPR, CRR, the 3 officer before whom the foregoing deposition was 4 taken, do hereby certify that the foregoing 5 transcript is a true and correct record of the 6 testimony given; that said testimony was taken by 7 me and thereafter reduced to typewriting under my 8 direction; that reading and signing was requested; 9 and that I am neither counsel for, related to, nor 10 employed by any of the parties to this case and 11 have no interest, financial or otherwise, in its 12 outcome. 13 IN WITNESS WHEREOF, I have hereunto set 14 my hand and affixed my notarial seal this 27th day 15 of February, 2020. 16 My Commission Expires: September 30, 2020 17 18 19 <i>Judith E. Bellinger</i> 20 _____ 21 NOTARY PUBLIC IN AND FOR 22 THE COMMONWEALTH OF VIRGINIA</p>

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